



# The Indian Claims Commission

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# Mandate

- ▶ In 1991, as part of its response to the events at Kanasatake/Oka, the government established the ICC by Order in Council as an independent advisory body to:
  - ◆ Hold public inquiries (under the *Inquiries Act*) into specific claims that have been rejected by the government or where there is disagreement regarding compensation criteria;
  - ◆ Provide mediation to help First Nations and government, at any stage in negotiations, to reach claim settlements.
- ▶ Before the creation of the ICC, First Nations were unable to challenge government decisions without going to court. The Indian Claims Commission has offered an alternative approach for First Nations who desire an independent review of government decisions.
- ▶ Commission work is carried out on the basis of Canada's Specific Claims Policy.
- ▶ Presently 5 Commissioners (including Chief Commissioner) appointed by federal government; 51 staff.



# Inquiry Process

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- ▶ After the Minister of INAC decided to accept or reject a claim, First Nations can request an inquiry when:
  - ◆ The Minister has rejected their claim; or
  - ◆ The Minister has accepted the claim, but there is a disagreement over compensation criteria.
- ▶ Inquiries follow a well established and accepted process (see following page).



# Inquiry Process

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**A First Nation writes to the Commission to request an inquiry. The Commission assesses the claim.**

## **Preparation for Inquiry**

- ▶ The Commission brings representatives of the First Nation and government together face-to-face, often for the first time, to discuss the claim, plan research, clarify legal issues.

## **Community Session**

- ▶ Commissioners visit the First Nation to hear oral testimony from elders and community members.

## **Written and Oral Submissions**

- ▶ Lawyers for the First Nation and government provide submissions on facts and law.

## **Final Inquiry Report**

- ▶ Based on the evidence presented, Commissioners release their findings and recommendations to the federal government, the First Nation, and the public.
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# Mediation Process

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By mutual agreement of the parties, the Commission can provide any form of dispute resolution service to assist in settling a claim.

- ◆ At any stage in the negotiations to assist the parties to reach a mutually acceptable resolution;
- ◆ At any stage of an inquiry to assist the parties to resolve their differences;
- ◆ At any stage of the claims process to assist the parties by facilitating joint studies required to move a claim forward.

Mediation services include:

- ◆ Facilitating the negotiation process;
- ◆ Arranging/providing mediation when an impasse exists;
- ◆ Coordinating joint studies;
- ◆ Monitoring the parties' decisions and undertakings.



# Ongoing Caseload and Expenditures by Fiscal Year

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<b>Fiscal year</b>	<b>Number of Inquiries/Mediations</b>	<b>Expenditures</b>
2000-2001	25 Inquiries and 13 Mediations	\$4.9 million
2001-2002	29 Inquiries and 12 Mediations	\$5.7 million
2002-2003	37 Inquiries and 13 Mediations	\$5.8 million
2003-2004	30 Inquiries and 18 Mediations	\$5.8 million
2004-2005	43 Inquiries and 21 Mediations	\$6.8 million
2005-2006	40 Inquiries and 24 Mediations	\$7.4 million (forecast)



# Concluded Inquiries and Mediations

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- ▶ Since its creation in 1991, as of March 31 2005, the ICC has concluded 65 Inquiries and 11 Mediations.