



AUG 15 2017

The Honourable Kevin Sorenson, M.P.
Chair of the Standing Committee on Public Accounts
House of Commons
OTTAWA ON K1A 0A6

Dear Mr. Sorenson:

On behalf of the Government of Canada, and in my capacity as Minister of Indigenous and Northern Affairs, I am pleased to respond to the recommendations made in the Standing Committee on Public Accounts' May 2017 report entitled "Report 6, First Nations Specific Claims, of the Fall 2016 Reports of the Auditor General of Canada".

The Government appreciates the work of the Committee, as well as the Auditor General of Canada, and agrees with the recommendations made in the Committee's report.

The Government of Canada is committed to building a renewed nation-to-nation relationship with Indigenous Peoples, one based on recognition of rights, respect, co-operation and partnership. Indeed, the Prime Minister has made this my overarching goal as Minister of Indigenous and Northern Affairs.

Central to achieving this objective is supporting the work of reconciliation and a key aspect of reconciliation is the resolution of historical grievances. The fulfilment of treaty and other obligations to First Nations is necessary to repair relations between First Nations and the Government of Canada.

Specific claims are claims made by First Nations against the Government of Canada which relate to the administration of land or other First Nation assets and to the fulfilment of pre-1975 treaties.

Since 1973, the Government of Canada has made available to First Nations, on a voluntary basis, an alternative dispute resolution process in which outstanding lawful obligations of the Government of Canada can be resolved through negotiated settlement agreements rather than litigation. Negotiated settlement agreements promote justice, certainty and reconciliation between First Nations and the Crown.

In November 2016, I tabled in Parliament my report on the review of the *Specific Claims Tribunal Act*. I reached two principal conclusions in that report. The first of my

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conclusions was that First Nations have significant concerns about the specific claims process. First Nations and others are concerned that the Government of Canada's approach to the resolution of specific claims has become arbitrary and is not supportive of reconciliation. In particular, there are concerns in respect of: the administration of research and negotiation funding; the adequacy of funding to support First Nations' participation in all stages of the specific claims process, including at the Specific Claims Tribunal; practices with respect to the assessment and acceptance of claims for negotiation; the availability of mediation; and the Government of Canada's failure to engage in meaningful negotiation. My second conclusion was that the Government of Canada cannot address these concerns in a positive manner without engaging with First Nations. In my report I committed to establishing a process with the Assembly of First Nations, First Nations and other interested parties to identify fair and practical measures to improve the specific claims process.

Also in November 2016, the Auditor General tabled his report in respect of First Nations Specific Claims. Not surprisingly, the Auditor General's findings and recommendations were very similar to those set out in my report concerning the review of the *Specific Claims Tribunal Act*. In short, the Auditor General found that the Department of Indigenous and Northern Affairs is not adequately managing the resolution of First Nations' specific claims. Central to the recommendations made by the Auditor General is the requirement that the Government of Canada work in collaboration with First Nations to address deficiencies in the specific claims process.

The May report of the Standing Committee on Public Accounts endorses the findings of the Auditor General and recommends that Indigenous and Northern Affairs Canada present a progress report to the Committee by April 30, 2018 that:

1. details how the rate at which claims are resolved through negotiations has increased;
2. details the progress made with regard to: the negotiation of small value claims; the development and implementation of a strategy to increase the use of mediation; and updating the department's website to include information about negotiation practices;
3. details the progress made with regard to: developing a methodology for providing research funding to First Nations; developing an evidence-based methodology for providing First Nations with loan funding; and ensuring that First Nations are aware of the evidence upon which decisions are made as to whether a claim discloses an outstanding lawful obligation;
4. details what progress has been made with regard to developing practices to gather, monitor and respond to information and feedback about the specific claims process; and
5. provides complete information about the results of the specific claims process and confirms that the department is keeping the information about the specific claims process on its website up to date.

Even before the tabling of my report on the review of the *Specific Claims Tribunal Act*, and before the Auditor General tabled his report, since June 2016, departmental officials have been engaged with the Assembly of First Nations, First Nations and other interested parties in a collaborative process to identify measures to improve the specific claims process. The Assembly of First Nations has identified the following four priority issues for discussion in this collaborative process: funding to support First Nations' research and development of claims, their participation in negotiations, and the presentation of their claims before the Specific Claims Tribunal; better use of mediation in negotiation processes to support the achievement of settlement agreements; clarity in respect of public reporting of specific claims-related activities; and the process for resolving claims with a value greater than \$150 million. Each of the priority issues being examined in the collaborative process relates to the recommendations of the Committee. Discussions in the collaborative process have been positive and productive. The Government of Canada is committed to taking positive action to change the specific claims process / policy in collaboration with First Nations and will be pleased to provide a detailed report on progress made on implementing the Committee's recommendations. It is expected that the collaborative process will continue throughout 2017-18 and that concrete proposals in respect of policy and / or process changes will be advanced, as appropriate, late in the fiscal year.

In the meantime, internal measures have, and will continue to be taken to: enhance opportunities to pursue a negotiated resolution of claims whenever possible; strengthen open, meaningful and more frequent communication with First Nation claimants in respect of the assessment and negotiation of claims; and clarify public reporting.

Our Government is committed to renewing the relationship with Indigenous peoples, based on the recognition of rights, respect, co-operation and partnership. Negotiated settlements are an invaluable tool in our work to right past wrongs. Canada and all Canadians benefit when we take concrete steps to advance reconciliation with First Nations.

Sincerely,



Hon. Carolyn Bennett, M.D., P.C., M.P.

c.c.: Mr. Michel Marcotte, Clerk of the Committee