



**TO THE UNITED NATIONS PERMANENT FORUM ON INDIGENOUS ISSUES**

**Third Session: New York: May 10-21, 2004**

**SUMMARY OF SUBMISSION BY THE ASSOCIATION OF IROQUOIS AND ALLIED INDIANS (AIAI) ON THE CANADIAN SYSTEM OF SETTLING FIRST NATION LAND CLAIMS AND RELATED CLAIMS**

Association of Iroquois and Allied Indians

I am the Grand Chief of the Association of Iroquois and Allied Indians, which represents eight First Nation communities and is part of the larger Ontario Political Confederacy representing 134 First Nation communities.

Recommendations:

1. First Nations have exhausted all domestic political and legal recourse to persuade Canada to meet its obligation to establish a land claims system that respects rights and fosters national reconciliation. Therefore, international intervention is sought and required with respect to Canada's Bill C-6, the "Specific Claims Resolution Act".

2. The AIAI respectfully asks the Permanent Forum on Indigenous Issues to make the following conclusions and recommendations:

(i) *The Permanent Forum shall utilize its mandate to prepare and disseminate information, and to provide expert advice and recommendations on Canada's Bill C-6 to the UN Economic and Social Council (ECOSOC).*

(ii) *The Permanent Forum shall establish a special investigation into Canada's land claims policy. The study or investigation should address itself to the potential role of UN organs and agencies in providing more adequate safeguards on independence, monitoring and oversight of Canadian land claim practices. The study should include at least one hearing, in New York or Canada, at which First Nations are invited to provide their evidence, information, views and recommendations.*

(iii) *Pending the independent international review, the Permanent Forum shall urge Canada to suspend any further implementation of Bill C-6 and to re-start government-to-government discussions with First Nations in Canada on a new claims process consistent with international and domestic constitutional standards, and supportive of the objective of national reconciliation and healing.*

3. Specific claims relate to disputes over the government's administration of reserve land and other assets, as well as the non-fulfillment of the provisions of Treaties or legislation, including the breach of fiduciary obligations.

4. The administrative Specific Claims policy has been in place for about 35 years. Yet, it has done little to diminish the huge backlog of First Nation claims. Most of the claims settled so far have been of a relatively minor or technical nature. The federal government has steadfastly stonewalled major claims involving relatively large amounts of land and money. The day of reckoning has been deferred, leading to increased tension between First Nations and Canada.

5. The reserve land base of all First Nations in Canada amounts to less than 1% of the total land base in Canada, far less than the area set aside for parks.

6. A fundamental problem with the Specific Claims policy is that Canada acts as "judge and jury" through its unilateral control of the process, which puts the federal government in a fundamental conflict of interest.

7. Another problem with the claims system is the artificial monetary cap on settlements imposed by Canada, which makes it practically impossible to settle significant claims. It does not provide for the provision of land either, but only monetary settlements.

8. The national First Nation organization, the Assembly of First Nations (AFN), has engaged in lengthy negotiations with Canada aimed at reforming the Specific Claims policy. A Joint Task Force (JTF), made up of federal and First Nation officials, arrived at a mutually agreeable set of recommendations, featuring independent review and monitoring of claims.

9. In a shocking and disappointing move, the federal government dismissed the carefully crafted recommendations of the JTF. Instead, Canada introduced Bill C-6 (the Specific Claims Resolution Act). All First Nations opposed Bill C-6. Yet, Canada rammed the measure through Parliament in late 2003, conducting the briefest of Parliamentary hearings, with the evidence of First Nations and proposals by Aboriginal Senators for further review being ignored.

10. The Tribunal and other components of Bill C-6 repeat the problems of the Specific Claims process. There is no independence, as all Tribunal members are appointed by the federal government for limited terms. Many kinds of claims (egs. programs and pre-Confederation) are not eligible. The process is not binding in relation to large claims (over \$10 million).

11. While the Bill was passed by Parliament, it has yet to be "proclaimed". The new Prime Minister (Mr. Paul Martin) has said on numerous occasions that he wants to engage First Nations in a new and positive relationship. In that spirit, the AFN and other First Nation organizations have asked the federal government to abandon Bill C-6 and return to collaborative reform of the claims system. The federal government has continued with pre-implementation of the Bill.