

ANNUAL REPORT FOR 2004-2006

The Implementation of the Nunavut Land Claims Agreement

FINAL TEXT VERSION

LOGOS FOR NIP MEMBERS HERE:

Nunavut Tunngavik

Government of Nunavut

Indian and Northern Affairs Canada

INSIDE COVER TEXT:

Inset of “Inland Birds” by Kenojuak Ashevak

Stonecut, 1994, 60.9 x 72.6, Edition of 50

Reproduced with the permission of Dorset Fine Arts, Toronto, Ontario.

Kenojuak Ashevak is one of Canada’s most acclaimed graphic artists. Her long list of achievements and honours is surpassed only by her stamina and good humour. Born on south Baffin Island at a camp area known as Ikirisaq, Kenojuak grew up traveling from camp to camp on south Baffin and in Arctic Quebec (Nunavik).

Kenojuak’s drawings are immediately captivating, and she has been represented in almost every annual Dorset Fine Arts print collection since 1959. Her work has also been included in numerous special projects, books and commissions, including Canada Post stamps, the World Wildlife Print Portfolio (1978), Commonwealth Print Portfolio (1978), and Via Rail’s Club Car series which featured some of Canada’s most highly respected artists.

Kenojuak has received many special honours over the years. She is now a Companion in the Order of Canada, was awarded Honourary Degrees from both Queen's University and the University of Toronto and in 2001 was inducted into Canada’s Walk of Fame. She is the first Inuit artist to be so honoured, and joins many other famous and accomplished Canadians.

Kenojuak is now 80 and the senior member of the Cape Dorset stable of graphic artists. Much loved and well respected, Kenojuak is represented by eight characteristically strong images in this collection.

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2 Table of Acronyms

AG	Auditor General
ALCC	Aboriginal Language and Culture Consultations
CAO	Chief Administrative Officer
CAHSP	Canadian Arts and Heritage Sustainability Program
CGS	Department of Community and Government Services (Nunavut)
CLEY	Department of Culture, Language, Elders and Youth (Nunavut)
CLSR	Canada Lands Surveys Records
CGS	Department of Community and Government Services (Nunavut)
CWS	Canadian Wildlife Service
DFO	Department of Fisheries and Oceans (Canada)
DHR	Department of Human Resources (Nunavut)
DIO	Designated Inuit Organization
DND	Department of National Defence (Canada)
DOE	Department of Environmental (Canada)
DOJ	Department of Justice (Canada)
EC	Environment Canada
ED&T	Department of Economic Development & Tourism (Nunavut)
EIA	Executive and Intergovernmental Affairs (Nunavut)
EPB	Environment Protection Branch (Canada)
FTP	File Transfer Protocol
GIS	Geographical Information System
GC	Government of Canada
GN	Government of Nunavut
GNWT	Government of the Northwest Territories
HRSDC	Human Resources & Skills Development Canada
HTO	Hunters and Trappers Organization
IB	Implementation Branch (Canada – INAC)
IEP	Inuit Employment Plan
IHT	Inuit Heritage Trust
IIBA	Inuit Impact and Benefit Agreement
INAC	Indian and Northern Affairs Canada
IOL	Inuit Owned Land
IPG	Institutions of Public Government
IQ	Inuit Qaujimajatuqangit (Traditional Knowledge)
ITK	Inuit Tapiriit Kanatami
JPMC	Joint Parks Management Committees
KivIA	Kivalliq Inuit Association
KitIA	Kitikmeot Inuit Association
LTO	Land Titles Office
LUP	Land Use Plan
MACA	Department of Municipal and Community Affairs
MLO	Municipal Lands Officer

MOU	Memorandum of Understanding
MTO	Municipal Training Organization
NAB	Nunavut Arbitration Board
NBS	Nunavut Beneficiaries Scholarship Program
NIP	Nunavut Implementation Panel
NIRB	Nunavut Impact Review Board
NITC	Nunavut Implementation Training Committee
NJPMC	Nunavut Joint Park Management Committee
NLCA	Nunavut Land Claims Agreement
NLWG	Nunavut Legislative Working Group
NNI	Nunavummi Nagminiaqtunik Ikajuuti Policy
NPC	Nunavut Planning Commission
NQL	Non-Quota Limitations
NRCan	Natural Resources Canada
NRO	Nunavut Regional Office (Canada – INAC)
NSA	Nunavut Settlement Area
NSDC	Nunavut Social Development Council
NSOWG	Nunavut Senior Officials Working Group
NSRT	Nunavut Surface Rights Tribunal
NTI	Nunavut Tunngavik Incorporated
NWB	Nunavut Water Board
NWMB	Nunavut Wildlife Management Board
NWRT	Nunavut Wildlife Research Trust
NWT	Northwest Territories
PCH	Department of Canadian Heritage (Canada)
PWGSC	Public Works and Government Services Canada
QIA	Qikiqtani Inuit Association
RIA	Regional Inuit Association
RWO	Regional Wildlife Organizations
RWED	Department of Resources, Wildlife and Economic Development (NWT)
SARA	Species at Risk Act
SC	Service Canada
TAH	Total Allowable Harvest
TBS	Treasury Board Secretariat
TFN	Tunngavik Federation of Nunavut

3 An Introduction to the Nunavut Land Claims Agreement

The *Nunavut Land Claims Agreement* (NLCA), also referred to as the Nunavut Final Agreement:

- Was signed on May 25, 1993 in Iqaluit by representatives of the Tunngavik Federation of Nunavut (TFN), the Government of Canada (GC), and the Government of the Northwest Territories (GNWT);
- Was ratified by Inuit and the federal government according to the ratification provisions of the Agreement, and came into force on July 9, 1993; and
- Involves the largest number of beneficiaries and the largest geographic area of any land claim agreement in Canadian history.

Today, there are approximately 23,000 Inuit beneficiaries in the Nunavut Settlement Area (NSA), formerly central and eastern Northwest Territories (NWT). The area conforms closely to the territory of Nunavut that came into existence on April 1, 1999. This area includes approximately 1.9 million square kilometres (one-fifth the total land mass of Canada), as well as adjacent offshore areas. Inuit constitute approximately 85 percent of the population of the NSA.

4 Nunavut Land Claims Agreement: Article Summary

- Article 1: Definitions
- Article 2: General Provisions
- Article 3: Nunavut Settlement Area
- Article 4: Nunavut Political Development
- Article 5: Wildlife
- Article 6: Wildlife Compensation
- Article 7: Outpost Camps
- Article 8: Parks
- Article 9: Conservation Areas
- Article 10: Land and Resource Management Institutions
- Article 11: Land Use Planning
- Article 12: Development Impact
- Article 13: Water Management
- Article 14: Municipal Lands
- Article 15: Marine Areas
- Article 16: Outer Land Fast Ice Zone - East Baffin Coast
- Article 17: Purposes of Inuit Owned Lands
- Article 18: Principles to Guide the Identification of Inuit Owned Lands
- Article 19: Title to Inuit Owned Lands
- Article 20: Inuit Water Rights
- Article 21: Entry and Access
- Article 22: Real Property Taxation
- Article 23: Inuit Employment Within Government
- Article 24: Government Contracts
- Article 25: Resource Royalty Sharing
- Article 26: Inuit Impact and Benefit Agreements
- Article 27: Natural Resource Development
- Article 28: Northern Energy and Minerals Accords
- Article 29: Capital Transfer
- Article 30: General Taxation
- Article 31: The Nunavut Trust
- Article 32: Nunavut Social Development Council
- Article 33: Archaeology
- Article 34: Ethnographic Objects and Archival Materials
- Article 35: Enrolment
- Article 36: Ratification
- Article 37: Implementation
- Article 38: Arbitration
- Article 39: Inuit Organizations
- Article 40: Other Aboriginal Peoples

- Article 41: Contwoyto Lake Lands
- Article 42: Manitoba and Marine Area East of Manitoba

For more details on the Articles of the NLCA, an electronic version of full NLCA document can be found at <http://www.ainc-inac.gc.ca/al/ldc/ccl/fagr/nu-eng.asp>

5 Foreword

The President of Nunavut Tunngavik Incorporated

The Premier of the Government of Nunavut

The Minister of Indian and Northern Affairs

The Nunavut Implementation Panel (NIP) is pleased to present its Annual Report on the Implementation of the *Nunavut Land Claims Agreement* (NLCA), pursuant to Article 37.3.3 (h).

This report covers the period April 1, 2004 to March 31, 2006, during which a number of important developments occurred. These included:

- A second independent evaluation of the implementation of the NLCA undertaken by Pricewaterhouse Coopers, in fulfillment of Article 37.3.3(b).
- In May 2005, Justice Thomas Berger was appointed as a conciliator to help resolve outstanding issues relating to the implementation of the NLCA, and submitted a two-part report with recommendations. Justice Berger's report, titled "*The Nunavut Project*", has been acknowledged by the NIP, and is attached in its entirety in the next section of this report.
- Ongoing efforts on the part of all signatories to update and amend the Implementation Contract, which continued during the period, without resolution.

Each member organization of the NIP has contributed to one or more sections of this report, outlining their perspectives on implementation challenges and progress. Reports from other principal bodies, including the Nunavut Implementation Training Committee, the Nunavut Wildlife Management Board, the Nunavut Impact Review Board, the Nunavut Water Board and the Nunavut Planning Commission, are also provided in this document. Accordingly, the statements and viewpoints put forward in the various sections of this report are not warranted as representing the shared statements and viewpoints of all members of the Panel or of the parties appointing them.

This report reflects the complexity of the challenges facing the parties to the NLCA, as well as the full range of perspectives on our progress to date.

6 Conciliator's Final Report: "The Nunavut Project"

March 1, 2006

Nunavut Land Claims Agreement
Implementation Contract Negotiations for the
Second Planning Period 2003-2013

By Thomas R. Berger, O.C., Q.C.
Conciliator

Craig E. Jones
Counsel to the Conciliator
Bull, Housser & Tupper
3000-1055 W. Georgia Street
Vancouver, British Columbia
V6E 3R3
cej@bht.com

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6.2 Letter to the Minister

THOMAS R. BERGER, O.C., Q.C.

SUITE 440, MARINE BUILDING, 355 BURRARD STREET,
VANCOUVER, B.C., CANADA
V6C 2G5

March 1, 2006

The Honourable Jim Prentice
Minister of Indian Affairs and Northern Development
Parliament Buildings, Ottawa

Dear Mr. Prentice,

RE: CONCILIATION

It is now six years on since the creation of Nunavut.

Nunavut today faces a moment of change, a moment of crisis. It is a crisis in Inuit education and employment, a crisis magnified by the advent of global warming in the Arctic and the challenge of Arctic sovereignty.

The *Nunavut Land Claims Agreement* that led to the creation of Nunavut is by far the largest of the land claims settlements in the modern land claims era. The territory is vast, covering one-fifth of Canada, extending from the 60th parallel to the waters off the northern coast of Ellesmere Island. If Nunavut were an independent country it would be the twelfth largest in area in the world.

Canada signed a land claims agreement with the Inuit of the Northwest Territories on May 25, 1993; it included a promise that a new territory, to be known as Nunavut, predominately Inuit, would be established in the Eastern Arctic.¹ Prime Minister Mulroney, speaking at the signing ceremony, said:

“We are forging a new partnership, a real partnership. Not only between the Government of Canada and the future Government of Nunavut but between aboriginal and non-aboriginal Canadians.”

¹ The promise was contained in Article 4 of the *Nunavut Land Claims Agreement*, 1993.

On April 1, 1999 the new territory came into existence. Canada was proud of this achievement, one distinctively Canadian and exemplifying our nation's ideal of unity in diversity. We took several bows on the international stage. Prime Minister Chretien said:

"Canada is showing the world, once again, how we embrace many peoples and cultures. The new Government of Nunavut will reflect this diversity, incorporating the best of Inuit traditions and a modern system of open and accountable public government."

Nunavut was to be an expression of Inuit self-determination. For the Inuit of Nunavut, it would be their place on the map of our country.² They did not seek an Aboriginal government; instead, the Agreement provided for the establishment of a *public* government in Nunavut, with a franchise extending to all residents, together with complete eligibility for all residents to stand for any public office.

The Government of Nunavut is now up and running. There have been two general elections in the territory. The elected government represents all the people of Nunavut.

Nunavut Tunngavik Incorporated (NTI) represents the Inuit of Nunavut, the beneficiaries with respect to the lands and resources they now hold under the *Nunavut Land Claims Agreement*. It is responsible for the management of the funds received under the settlement on behalf of the Inuit and, along with regional Inuit organizations, for safeguarding Inuit interests regarding implementation of the Agreement. Since 2002, the Government of Canada, the Government of Nunavut and NTI have been engaged in negotiations to renew the Implementation Contract signed in 1993 (at the same time as the Agreement) to cover the second implementation period, 2003 to 2013.

But Canada, Nunavut and the NTI had been unable to agree on the terms of continuing implementation.

On June 1, 2005, I was appointed as Conciliator by your predecessor.³ My job has been to explore, with the Parties, new approaches to the implementation of the *Nunavut Land Claims Agreement*.

In Nunavut and in Ottawa, my counsel⁴ and I have heard from government officials from the highest levels through to the rank and file in territorial and federal departments. We have spoken with educators, parents, and students from kindergarten to college and university. We have met with Inuit entrepreneurs and artists, with municipal officials and employees, trainee lawyers,

² Prime Minister Chrétien put it this way:

"Fifty years from now schoolchildren will be reading about this day in their text books...when we redrew the map of Canada and helped achieve the long-promised destiny of the people of the Eastern Arctic."

³ The Minister of State (Northern Development), the Premier of Nunavut and the President of NTI jointly recommended my appointment.

⁴ Craig Jones of Bull, Housser & Tupper LLP has acted as Counsel to the Conciliator. He has worked closely with me throughout, and has conducted meetings and interviews on my behalf, as well as making an invaluable contribution to the preparation of my report.

nurses and teachers. We have talked with officers of the RCMP and the Canadian Armed Forces, with hunters and trappers, community elders, linguists and historians.

As Conciliator I dealt first with the arrangements for the ongoing funding of the boards and commissions responsible for the management of land and resources in Nunavut. The members of these boards and commissions (known as Institutions of Public Government) are nominated by Canada, NTI and Nunavut. They are mandated to manage the wildlife, wildlife habitat, water, mineral and marine resources of Nunavut. They engage in land use planning and environmental impact assessment. Theirs is an immense task.

I dealt with the question of funding these Institutions of Public Government in my Interim Report of August 31, 2005. On the basis of my recommendations the parties have found themselves able to agree to funding for the work of these boards in the sum of \$15 million per year for the balance of the ten year implementation period 2003 – 2013.

In my Final Report, which accompanies this letter,⁵ I have had to deal with a subject of even greater import, a subject with profound implications: Article 23 of the *Nunavut Land Claims Agreement*. Article 23 lies at the heart of the promise of Nunavut.

Article 23 has, as its stated objective, “to increase Inuit participation in government employment in the Nunavut Settlement Area to a representative level.” Moreover, this objective applies to “all occupational groupings and grade levels” within government. It is an objective which is shared by the Government of Canada and the Government Nunavut.

On its face, Article 23 speaks only to employment in the public service. But I have found that it is impossible to consider Article 23 in isolation. Any examination of the objective – representative levels of Inuit employment – inevitably leads to a consideration of a range of issues implicated in the future of Nunavut, especially in the fields of employment and education.

The population of Nunavut is now approaching 30,000, of whom 85% are Inuit. Under Article 23 the Inuit ought to have 85% of the positions in the public service. The fact is, however, that only 45% of the employees of the Government of Nunavut are Inuit. This figure was more or less achieved early on, as Inuit took up mainly lower level (e.g. administrative support) positions in government, and has not been improved upon for the simple reason that only a few Inuit are qualified for the executive, management and professional positions that make up the middle and upper echelons of the public service. The result is that, although most of the elected members of the Government of Nunavut are Inuit, the great majority of the higher level positions in the public service are held by non-Inuit; in fact, these latter constitute a large part of the 15% of residents of Nunavut who are not Inuit.

The problem is not on the demand side of the equation. The Government of Nunavut has strived mightily to provide opportunities for virtually all qualified Inuit. The problem is that the supply of qualified Inuit is exhausted. Only 25% of Inuit children graduate from high school, and by no means all of these graduates go on to post-secondary education. The types of jobs where the need

⁵ In accordance with the arrangement made at the outset by the Parties, I am sending copies of this Final Report, including this letter, to Premier Paul Okalik and Paul Kaludjak, the President of NTL.

for increased Inuit participation is most acute – such as the executive, management and professional categories – have inescapable educational requirements.

The language spoken by the Inuit is Inuktitut.⁶ Indeed, for 75 per cent of the Inuit, Inuktitut is still their first language spoken in the home, and fully 15% of Inuit (mostly living in the smaller communities) have no other language. Given the demographics of the new territory Inuktitut ought, generally speaking, to be the language of the governmental workplace in Nunavut and the language of the delivery of government services. But it is not. The principal language of government in Nunavut is English. So the people of the new territory speak a language which is an impediment to obtaining employment in their own public service.

The Government of Nunavut has 3200 employees. The Inuit say they are entitled to their fair share of employment in the public service. They rely on Article 23; it is an equity clause – an equity clause not for a minority but for a majority.

The Inuit live today in 27 isolated communities in a vast land until now accessible only for a month or two in summer, except by air.

Until the post-World War II period, they had made their living for centuries by hunting, trapping and fishing. Today the traditional way of life is still of fundamental importance to the Inuit. But the movement away from the land promoted by Canada - over the past 50 years - into the communities, into a world in which government, schools and bureaucracy are paramount, has been inexorable. As Premier Paul Okalik has said, "Inuit are currently in a transition stage from a land-based (traditional hunting) economy to a modern or wage-based economy."

In Nunavut there is no developed wage economy, no industry. Unemployment is high, averaging 30 per cent but reaching 70 per cent in some communities. As well, many of the Inuit are dependent on income support in some form.

Thus the importance to the Inuit of the Government of Nunavut as employer.

In fact, the Government of Nunavut has decentralized its administration to ensure not only that the territorial government is closer to the people but also that the job opportunities it represents are spread around the territory. But such measures in themselves cannot fulfill the objective of Article 23: the Inuit must have the opportunity for an education that will enable them to take these jobs.

Article 23 therefore raises the question: What has to be done to qualify the Inuit for employment in all occupational groupings and grade levels in their own government? There must of course be near-term initiatives to increase the number of Inuit in the public service. I am recommending some of these measures: An expanded program of summer students and internships in the Government of Nunavut itself, career counselling, and scholarships for apprenticeships and for

⁶ By Inuktitut I mean as well Innuinaqtun, the dialect of the Kitikmeot region, which includes Kugluktuk and Cambridge Bay.

post-secondary studies.⁷ But you can't envisage any way of achieving the objective of Article 23 over the long term unless you start by increasing the number of high school graduates. So it all leads back to the schools, to education, for it is Inuit high school graduates and Inuit graduates of university and other post-secondary programs who will enter the public service. There will have to be major changes in the education system in order to vastly increase the number of Inuit high school graduates; in my view a new approach is required, a comprehensive program of bilingual education.

Canada, represented by Indian Affairs, has in the past adopted the position that it has no further obligations under Article 23, that by conducting a labour market survey and developing plans for Inuit employment and pre-employment training, it has done all that it specifically agreed to do under Article 23. It is true that Article 23 does not say anything about the schools, about education. It is quite apparent, however, that Article 23, which deals with employment, cannot be discussed intelligently without discussing education. The schools are supposed to equip students with the skills to obtain employment. But in Nunavut they have not produced an adequate pool of qualified Inuit. The schools are failing. They are not producing graduates truly competent in Inuktitut; moreover, the Inuit of Nunavut have the lowest rate of literacy in English in the country.

At the meetings we have had, it has become obvious that the status quo is unacceptable, that a strong program of bilingual education must be adopted. The Government of Nunavut, with the support of NTI, has argued the urgency of such a program. Indian Affairs has made an altogether positive contribution to the Conciliation process and has worked closely with the other parties and with me in developing my recommendations for consideration by you and your colleagues.

The Government of Nunavut in 1999 inherited from the old Northwest Territories a school curriculum which, while ostensibly bilingual, emphasized English at the expense of Inuktitut. The system is not working.

Today in Nunavut, Inuktitut is the language of instruction from kindergarten through Grades 3/4. In Grades 4/5 Inuktitut is abandoned as a language of instruction, and Inuit children are introduced to English as the sole language of instruction. Many of them can converse in English. But they can't write in English, nor are their English skills sufficiently advanced to facilitate instruction in English. In Grade 4, they are starting over, and they find themselves behind. Their comprehension is imperfect; it slips and as it does they fall further behind. By the time they reach Grade 8, Grade 9 and Grade 10, they are failing (not all of them, to be sure, but most of them). This is damaging to their confidence, to their faith in themselves. For them, there has been not only an institutional rejection of their language and culture, but also a demonstration of their personal incapacity. The Inuit children have to catch up, but they are trying to hit a moving target since, as they advance into the higher grades, the curriculum becomes more dependent on reading and books, more dependent on a capacity in English that they simply do not have.

⁷ I also recommend expansion of Nunavut Sivivuksavut, a unique post-secondary program for Inuit students, based in Ottawa.

In Nunavut this reinforces the colonial message of inferiority. The Inuit student mentally withdraws, then leaves altogether.

In such a system Inuktitut is being eroded. Of course, language is only one element of identity, but it is a huge one.

The drop-out rate is linked to Nunavut's unhappy incidence of crime, drugs and family violence. Ejetsiak Peter chairman of the Cape Dorset District Education Authority, summed it up for me through an interpreter: "The children who drop out have not developed the skills to live off the land, neither do they have employment skills. So they are caught between two worlds." It is clear that out of this situation has emerged the social pathology that bedevil Cape Dorset and other communities.

The schools reflect contemporary life in Nunavut. In 1995, Rodolfo Stavenhagen, the United Nations' Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, in a report to the U.N. Committee on Human Rights, fairly summed up the condition of Nunavut today. He wrote:

"The overall health of Inuit continues to lag far behind that of other Canadians. Life expectancy is ten years lower than the rest of Canada. Many health indicators are getting worse. Arctic research shows that changes in traditional diets lead to increased health problems, particularly of mental health, characterized by increased rates of depression, seasonal affective disorder, anxiety and suicide. Inuit leaders are deeply concerned that the housing, education, health and suicide situation have reached crisis proportions and are not being addressed by the Federal Government."

So it is not only a question of language. Inuit children live in the most overcrowded, overheated houses in Canada, where one-third to one-half of the children, uniquely susceptible as a race to Chronic Otitis Media, suffer from hearing impairment (the teachers in Nunavut have to use microphones in the classroom) and delayed speech development.

Imagine the odds faced by a student attempting to do homework with 12 or 13 other people in the house (on average, half of them children), perhaps sleeping two, three or four to a room. Nunavut's climate dictates that these tiny homes will be shut tight against the weather for possibly 8 months of the year; virtually every home has at least one resident smoker; oil heating may produce carbon monoxide and other pollutants. The fact that even one quarter of Inuit students graduate from high school is, under the circumstances, a testament to the tenacity of those students, their parents, and their communities.

In my judgement the failure of the school system has occurred most of all because the education system is not one that was set up for a people speaking Inuktitut. It is a bilingual system in name only, one that produces young adults who, by and large, cannot function properly in either English (because they never catch up with the English curriculum) or Inuktitut (because they learn only an immature version of their first language before switching to English).

There has been some improvement in Inuit achievement in school in recent years. There is, however, no steady arc of improvement. In fact, there is a danger of a falling back, a danger that Inuktitut will continue to lose ground, and the sense of loss in Nunavut will become pervasive.

You might ask: why not just teach in English, and let Inuktitut fend for itself as an Aboriginal language for only private use? I have considered this alternative but it is impractical and, moreover, unacceptable. First, because experts on language in schools say that the foundations of language during the crucial early years of education are best developed using the child's native tongue as the language of instruction. In other words, if you want children speaking Inuktitut to develop real skills in English, it is better to focus on Inuktitut to provide a firm anchor of learning during those developmental years. The same is true of scholarship generally. Children who speak aboriginal languages will be better students, and will be more likely to stay in school, if they receive more instruction in their first language. Second, because those graduates who go on to positions of responsibility in government, though they will receive their post-secondary training in English, would nevertheless be required to deliver government services in the language of the community. Third, because Inuktitut is the vessel of Inuit culture. The Inuit are determined to retain their language; it is integral to their identity.

I would add one other reason why we cannot move to an English-only school system: we have tried it before, and we know it doesn't work. In the Indian residential schools, it led to tragedy. In Nunavut today, the schools in Kugluktuk and Cambridge Bay have an all-English program and graduation rates are no better than in the other regions of Nunavut, where an all-English system of instruction prevails after Grade 3.

The only solution is to provide a bilingual system that works.

The Government of Nunavut with the support of NTI proposes, and the experts agree, that we must undertake nothing less than a new program of bilingual education starting in the pre-school years, and from kindergarten through Grade 12. Inuktitut would still be the principal language of instruction from kindergarten to Grade 3, but it would not be effectively abandoned in Grade 4. Both Inuktitut and English would be languages of instruction right through Grade 12.

The exact distribution of subjects may vary. Perhaps Inuit history, traditions, and culture, the geography of Nunavut, the life of the Inuit in early times, contact with European explorers, the fur trade, the long struggle for their land claim the creation of Nunavut, and their present-day achievements in art, sculpture and film, should all be taught in Inuktitut. Crossover subjects such as social studies could be taught in Inuktitut. It may be that English will be the best choice for teaching science and mathematics.

Nunavut is made up of 27 communities and each community must tailor the system to its particular needs and resources. In Kugluktuk and Cambridge Bay, for instance, where Inuktitut is endangered, the choice may well be immersion in Inuktitut.

There is a shortage of Inuit teachers in Nunavut. Only 35 per cent of teachers speak Inuktitut, and their numbers are slipping due to attrition from retirement, the stresses of the job (particularly for women with families) and the temptations of other careers in the territory, since

Inuit teachers are the largest cohort of qualified Inuit in any field. The program I am recommending will require that many more teachers be trained. In the meantime other measures can be taken. There are, for instance, middle-aged and adult Inuit in every community who speak Inuktitut well. They would be given a year of teacher training in the community and would teach Inuktitut in the schools. At the same time, local trades people, carvers and sculptors would give classes in their specialties. Life on the land would not be forgotten. Survival skills in danger of being lost would be transmitted in the classroom by veteran hunters. All this while more Inuit teachers are formally trained and introduced, year-by-year, into an expanding bilingual curriculum.

Language "nests," on the New Zealand model, to engage whole families in the use of Inuktitut, would be introduced. School would become the business of the whole community.

The objective would be, over time, to see high school graduation rates in Nunavut conforming to the rest of Canada.

We are not simply discussing the means by which the Inuit may acquire their fair share of government jobs. As the Inuit graduate from high school and go on to achieve the qualifications necessary to enter the middle and upper echelons of the public service, they will at the same time acquire the skills that will enable them to compete for good jobs in the private sector. Premier Paul Okalik has written that "I firmly believe that education is a key to individual development and future opportunities." It is my firm belief too. The fulfillment of Article 23 is the means by which the Inuit can be enabled to participate not only in their own government but also in private sector employment.

This is not to say that all Inuit children would be destined for graduation. Many would not. Nor is it to say that Nunavut ought to adopt a wholly academic program. If Inuit youth are going to live off the land or go into a trade, there would be a place for them in school.

The aim would be not to preserve Inuktitut as a cultural artifact but to affirm Inuit identity, to improve Inuit educational achievement. The idea is to strengthen the language that is at risk, but at the same time to improve ability in English.

What we have to get into our heads is that the loss of language and educational underachievement are linked. The strengthening of Inuktitut in the school, the home and the community can bring improvement in achievement in both Inuktitut and English.

The Inuit have decided that this is their only choice, and I believe that it is Canada's only choice. The Inuit have looked to the example of Greenland, where a program designed solely to develop competence in Greenlandic (the Inuit language of Greenland) has produced high school graduates who are not competent in Danish or English, foreclosing any post-secondary study except in Greenland.

Nunavut is the heartland of the Inuit of Canada; a majority of Canada's Inuit live in Nunavut. In Kugluktuk and Cambridge Bay, where English has to a great extent supplanted Innuinaqtun even in the home, parents insist it must be taught in the schools and eventually become a language of

instruction. They firmly believe, however, like the Inuit throughout Nunavut, that their children must be competent in English also, since it is the language which enables them to speak to Canada and the world. And they understand it will continue to be used in the Government of Nunavut, especially in scientific and technical fields. But it will be replaced, over time as the principal language of government, by Inuktitut.

Why, it may be asked, hasn't the Government of Nunavut gone ahead with such a program? Well, it is a government that was organized only a few years ago. But the main reason is that the Government of Nunavut is not in a position to undertake such a program because *it cannot afford it*.

Such a program and the specific near-term initiatives that I am recommending go well beyond Nunavut's ordinary budget requirements for education and development of human resources. The Government of Nunavut must play its part, but the lion's share of the costs must be borne by the Government of Canada.

Neither in 1993 nor in 1999 was the magnitude of the task apparent. We erected a new government for a people speaking Inuktitut, but who were to be integrated into the life of a predominantly English and French speaking country. It was believed that we could achieve 85 per cent Inuit employment by 2008. All have now agreed that the target date ought to be 2020, but it is a target that can only be reached if we act now.

To establish a program of true bilingual education and to enable the Inuit to gain their fair share of places in the public service will be a major undertaking. But what did we expect? When we agreed to the establishment of Nunavut, it cannot have escaped our notice that the overwhelming majority of the people of the new territory would be Inuit, speaking Inuktitut.

Nunavut is a unique jurisdiction in Canada, a territory whose population speaks a language which is not predominantly English or French. No other province or territory has a majority of Aboriginal people speaking a single language.

In the late 1960s, the Royal Commission on Bilingualism and Biculturalism (the B & B Commission) warned us that French-speaking Canadians had to be given an opportunity to occupy their fair share of places in the public service of Canada and that their language and their communities should be given an opportunity to flourish throughout Canada.

The B & B Commission found that Francophones did not occupy in the higher echelons of the federal government the places their numbers warranted; that educational opportunities for the francophone minorities in the English-speaking provinces were not commensurate with those provided for the English-speaking minority in Quebec, and that French-speaking Canadians could neither find employment in nor be adequately served in their own language by the federal government.

The resemblance to the situation in Nunavut today is striking.

After the report of the B & B Commission, a series of measures followed, including the *Official Languages Act* of 1969, promotion of bilingualism in the federal public service, and in 1982 the

adoption of Section 23 of the *Charter of Rights*, which provides a constitutional guarantee for minority language schooling throughout the country "where numbers warrant."

The Government of Canada has acknowledged that such expenditures are a federal responsibility.

So much was required for one of Canada's two founding peoples.⁸ No one now disputes the wisdom of the measures taken: Francophones should be, as Prime Minister Pearson argued at the time, "at home" in their own country. So should the Inuit.

Just as there had to be measures to enable Francophones to take their rightful place in the public service of Canada, and to promote and sustain the use of French, so also in Nunavut today there must be measures to enable the Inuit to take their rightful place in the public service of Nunavut and to promote and sustain the use of Inuktitut.

This is not to say that Inuktitut should be one of the official languages of Canada. It is to say, however, that the principle observed, the model adopted as a result of the work of B & B Commission, the type of programs undertaken to promote bilingualism in the federal government and to encourage and sustain French in schools in the English-speaking provinces, ought to be a useful guide to enable us to ensure that Inuktitut, the spoken language and the written language of the Inuit,⁹ should be encouraged and sustained in the schools, and in the public service.

The program I am recommending will require funding over and above the subsidy provided to Nunavut under the present Territorial Formula Financing arrangements. The Government of Nunavut has costed the near-term initiatives that I am recommending. As far as costing the proposed comprehensive program of bilingual education is concerned, there will have to be further discussions between Nunavut and Canada.

PricewaterhouseCoopers reported in 2003 that if the Inuit occupied their proportionate share of the posts in the public service, they would enjoy a net gain annually of \$72 million. That is how much would go into their pockets. The same report estimated that government would also save tens of millions of dollars per year in costs such as those associated with the recruitment, hiring, and training of non-Inuit (mostly imported at considerable further expense from the South) for the same positions.¹⁰ These are substantial sums, amounting together to perhaps \$97 million annually.

A much greater social cost will, however, await as if we do not act now.

The statistics relating to social pathology in Nunavut may seem bloodless on the page, but they represent a social catastrophe in the making, the loss of a whole generation.

⁸ There is a small but thriving Francophone community in Iqaluit, the capital of Nunavut. Numbering 400, they have received \$5 million to build a new school in Iqaluit, and \$4 million dollars per year in funding for the promotion of French.

⁹ The written form of Inuktitut has existed for a century. It is a system of syllabics, a phonetic system. The Innuinaqtun dialect is written using a Roman orthography.

¹⁰ Studies have shown that, on average, locally recruited Inuit employees stay at their jobs almost twice as long as non-Inuit workers recruited in the South.

All of this is occurring in a suddenly altered Arctic landscape and seascape.

The Arctic is the epicentre of global warming. The shrinking of the Arctic ice represents a threat to polar bears, seals, the whole range of Arctic marine mammals and wildlife - a threat to the traditional Inuit way of life. The evidence of climate change in the Arctic is accumulating day by day. In my travels in the Arctic in 2005 I have seen it. The permafrost is melting. The ice in the rivers goes out earlier, greater snowfall is impeding the migratory routes of the caribou, supply vessels are reaching Iqaluit and other communities measurably earlier. If present warming trends continue, the Arctic landscape could be greatly altered by 2020.

The Northwest Passage and the other passages through the Arctic archipelago may within ten or fifteen years be open to year-round navigation. Or it may be a more distant prospect. But it is coming. In any event with global warming the Arctic and the Arctic Islands are likely to be more accessible to oil and gas exploration and production, intensive development of mining and the establishment of navigation, ports and other infrastructure – all may occur in Nunavut sooner than anyone now reckons.

This makes even more urgent the kind of program I am recommending. Whatever the future climate and economic prospects of Nunavut may be, the Inuit have to be ready to play their part. In education lies that readiness.

From the earliest days the exploration of the Arctic by Europeans was carried on in partnership with the Inuit. They were partners in the whaling industry and the fur trade. The Inuit were then as they are today the permanent inhabitants of the Arctic – the people who were born there and will spend their lives there.

In 1993 the Inuit of Nunavut surrendered their Aboriginal title to Canada. This was of the first importance to Canada. Indeed, Canada acknowledged in 1993, when it signed the *Nunavut Land Claims Agreement*, “the contributions of Inuit to Canada’s history, identity and sovereignty in the Arctic.” The presence of the Inuit, their occupation of the land since time immemorial, the surrender of their Aboriginal title to Canada, the establishment of Nunavut and today their participation in the Canadian Rangers, keeping watch on our northern fastnesses, have been instrumental in strengthening Canada’s identity and its sovereignty in the Arctic.

For the Inuit, the advance of the industrial frontier coupled with the possibility of the loss of traditional resources, reveals how compelling it is that the Inuit should be able to equip themselves with education and training for employment. Climate change shows no sign of abating; its impact on the Inuit, their homeland and therefore on Canada will continue; perhaps at an accelerated pace.

The program I have laid out here is an ambitious program, and a costly program. The specific initiatives that I am recommending for the near term have been costed at approximately \$20 million per annum. I have no doubt that, once a program of bilingual education is up and running it too will be expensive. But if we treat these measures as an integral part of an Arctic strategy, the costs can at once be placed in perspective. And I cannot see an alternative. If we fail to achieve the objective of Article 23, such failure would represent a fundamental breach of faith.

It must be obvious that the program of bilingual education, conceived by the Government of Nunavut and extending well beyond the subject of land and resources, cannot be shoehorned neatly into Article 23. It cannot be administered under the *Nunavut Land Claims Agreement*. The funding will have to come from Ottawa. The program will have to be delivered by the Government of Nunavut. There will have to be a performance audit by an independent committee. It must be understood, however, that it will take time to achieve results.

The steps needed to assert Canadian sovereignty in the Arctic will have to be measured over decades as the ice recedes. The establishment of infrastructure and the utilization of resources will be a long-term proposition. A unified Arctic strategy for sovereignty and industrial development must be founded on the long-term interests of the Inuit, which I believe can best be served by the program I am recommending.

Our relationship with the Inuit of Nunavut is still unfolding. Settlement of land claims was the first major step in decolonization. I think the emphasis must now be on education and employment.

The public service of the Government of Nunavut must be representative of the people of the territory. The task of administering and developing the land and resources of this vast area is one in which the Inuit must be qualified to participate.

This is not to say that life on the land will be lost. Inuit children will still learn about their own history in school, survival skills will still be taught. The links to tradition are still there and must not be severed.

The program cannot only be top-down. It must be a project in which all of Nunavut takes part – the Nunavut Project if you will. The Nunavut Project must involve all the people of Nunavut, not just teachers and students. Inuktitut must continue to be spoken in the home and in the communities. It cannot be a language used only in school. The Inuit will be enlisted, many of them, to teach Inuktitut, to bring their own skills into the classroom. There will have to be more Inuit teachers with bachelors' and masters' degrees than ever before. Elders must pass on the language. Parents must make sure the whole family enters the language nests. Parents will have to do more to keep their children in school.

The non-Inuit in Nunavut will, I believe, wholeheartedly support the program. Many do not expect to remain in the territory throughout their lives. But they all believe in the future of the Inuit and of Nunavut. Inspector John Henderson of the RCMP spoke for all of them when he told me that we must not allow this "glorious experiment" to miscarry.

Can it be done? Can Nunavut turn out graduates fluent and literate in Inuktitut and English?

Every Canadian must be aware of Inuit achievements in art and sculpture, in film and performance arts, achievements for which the Inuit have won international renown. The Inuit are a bright tile in the Canadian mosaic. Why not Inuit bilingualism? Why not an Inuit literature?

I believe Canadians will support this project – the Nunavut Project. They realize that no affirmation of Canada's Arctic sovereignty will be complete unless the people of the Arctic – the Inuit – are partners in the task.

Our ideas of human rights, of strength in diversity, of a northern destiny merge in the promise of Nunavut. It is a promise that we must keep.

A handwritten signature in black ink that reads "Thomas R. Berger". The signature is written in a cursive, flowing style.

Thomas R. Berger
Conciliator
Vancouver, March 1st, 2006

6.3 Introduction

A. My Mandate

I was appointed on June 1, 2005 as Conciliator by the Minister of Indian Affairs and Northern Development, pursuant to an agreement reached by the Minister of State (Northern Development), the Premier of Nunavut, and the President of Nunavut Tunngavik Inc. (the representative body of the Inuit of Nunavut, known as "NTI"). My job is to recommend new approaches to the implementation of the *Nunavut Land Claims Agreement*, signed in 1993.

Every land claims agreement has to be implemented. The parties have to work out how they are going to do the things agreed. In 1993, in accordance with Article 37.2 of the *Nunavut Land Claims Agreement*, the Parties to the Agreement had developed an implementation plan which, under Article 37.2.3, was consolidated into a contract.¹¹ This Implementation Contract identified the projects and activities required to implement the Agreement, including the identification of the responsible Party for implementing each of the provisions, time frames for implementation, and required funding levels for, among other things, the Institutions of Public Government (the boards and commissions set up under the Agreement).

Article 37 of the *Nunavut Land Claims Agreement* required the establishment of a Nunavut Implementation Panel¹² to oversee and provide direction and oversight for the implementation of the Agreement. The Implementation Panel was also required to take the initiative to renew the Implementation Contract.

In accordance with these provisions, in March 2001 the Parties established a working group to develop recommendations to the Implementation Panel on levels of funding for implementation of the Agreement during the next planning period, 2003-2013. On July 4, 2001, the Panel signed the *Nunavut Implementation Panel Terms of Reference for the Working Group on Updating the Implementation Contract*.

After that, negotiations stalled, resulting in uncertainty as to ongoing implementation, and uncertainty in particular over two issues: funding levels for the Institutions of Public Government established under the Agreement, and Canada's responsibility, if any, for further steps to ensure improvement in the level of Inuit employment in the public service of Nunavut under Article 23 of the Agreement.

In May, 2005, Ethel Blondin-Andrew, the Minister of State (Northern Development), Paul Okalik, the Premier of Nunavut, and Paul Kaludjak, the President of Nunavut Tunngavik Inc., agreed to move to the present conciliation process, and Andy Scott, the Minister of Indian Affairs and Northern Development, signed off on my formal appointment.

¹¹ At the time, the Parties to the Agreement and Implementation Contract were the Government of the Northwest Territories, the Inuit of the Nunavut Settlement Area as represented by the Tungavik Federation of Nunavut, and the Government of Canada. The Government of the Northwest Territories and the Tungavik Federation of Nunavut have since been succeeded as Parties by the Government of Nunavut and Nunavut Tunngavik Inc., respectively.

¹² Article 37.3.2 provides:

The Implementation Panel shall be composed of four members: one senior official representing the Government of Canada, one senior official representing the Territorial Government and two individuals representing [NTI].

On May 22, 2005, the Director General, Implementation Branch, Department of Indian Affairs and Northern Development, provided me with a Background Note on the Status of Negotiations and a memorandum regarding the scope of the Conciliation process. The Background Note stated that "the parties wish to embark on a new approach that involves engaging a recognized problem solver who could make a neutral assessment of the issues and provide the parties with recommendations that may resolve our differences and bring about a mutually acceptable solution."

The Background Note also states:

The role of the Conciliator, as agreed to by all parties, is to:

- Review the background, current status and outstanding issues related to the update of the Contract, and
- Make recommendations to the parties on possible approaches which could be taken to resolve the current impasse.

There was indeed a "current impasse"; in fact, the Parties had opened negotiations in 2002 and at the time of my appointment in 2005 had been unable to agree on a single item.

According to the Background Note, the Conciliator is to "submit a draft report as soon as possible, and if not possible within 90 days, submit an interim report, outlining recommendations to the Parties."

Early on in the process, I determined that there were two main areas of dispute between the Government of Nunavut and NTI, on the one side, and the Government of Canada on the other. The first issue concerned the appropriate level of funding to be provided for the Institutions of Public Government established under the *Nunavut Land Claims Agreement* and funded by Canada. The initial funding levels were established in the Implementation Contract in 1993: the question now was, what ought to be the appropriate levels of funding for the next 10-year period, from 2003 to 2013?

The second main issue, and the thornier question, concerns Article 23 of the Agreement, which establishes the goal of a representative public service in Nunavut.

I began my review on June 1, 2005 and met with representatives of the Parties in Ottawa on June 8 and 9. Then I went to Nunavut and met again with the Parties at Iqaluit, Pangnirtung and Clyde River on July 8 to 15. I met with them again in Ottawa on July 26 to 29. Another series of meetings were conducted by my Counsel in Cambridge Bay, Arviat, Rankin Inlet and Iqaluit from September 14th to 24th.¹³ I met with Heritage Canada officials in Winnipeg on October 6th, and with the Parties again in Ottawa in the week of October 24th through 28th. I conducted a series of meetings in Cape Dorset and Iqaluit from November 28th to December 2nd. I then traveled to Kuujuaq, Nunavik to meet with officials of the Kativik Regional Government and Kativik School Board on January 16 & 17, 2006, and then to Toronto on the 18th and 19th of that month where I met with Professors Ian Martin of York University and Jim Cummins of the University of Toronto, experts in the field of bilingual education.

A simple recitation of the meeting dates does not, I think, adequately describe the full extent of the discussions I have had. In Nunavut and in Ottawa we have heard from government officials from the

¹³ Craig Jones of Bull, Housser & Tupper LLP has acted as Counsel to the Conciliator. He has worked closely with me throughout, and has conducted meetings and interviews on my behalf, as well as making an invaluable contribution to the preparation of my reports.

highest levels through the rank and file in territorial and federal departments. We have spoken with educators, parents, and students from kindergarten through college and university. We have met with Inuit entrepreneurs and artists, with municipal officials and employees, lawyers, nurses and teachers. We have spoken with officers of the RCMP and the Canadian Armed Forces, with hunters and trappers, community elders, linguists and historians.

The materials that I have reviewed are voluminous, covering proposals and counter-proposals exchanged by the Parties between May 2001 and November 14, 2004 as well as extensive briefs presented to me at the meetings held in 2005 and 2006. I have also reviewed much of the published and unpublished literature on the *Nunavut Land Claims Agreement* and the establishment of Nunavut.

Throughout, all Parties have given me their complete co-operation.

I submitted my Interim Report to the Parties on August 31, 2005. It dealt primarily with the question of the appropriate level of funding for the Institutions of Public Government. I wrote at the time that the question of the implementation of the objective of Article 23, i.e. representative Inuit employment in the public service of Nunavut, would be reserved for my Final Report.

B. Progress Since The Interim Report

Following the issuance of my Interim Report at the end of August, 2005, the Parties resumed discussions on the basis of the recommendations I had made in that Report: they related mainly to funding for the Institutions of Public Government and improving the dispute resolution process. Initially little progress was made, and I became concerned that the process was in danger of slipping back into the earlier pattern of deadlock.

I met with the Parties in early December in Iqaluit, encouraging them to move more swiftly on the issue of funding for the Institutions of Public Government. The Parties then designated representatives to a new Working Group who met throughout that month by teleconference and email. On December 21st the Working Group - David Akeeagok for the Government of Nunavut, John Bainbridge for NTI, and Damon Rourke for the Government of Canada – came to a consensus, and sent the Group's recommendations to the Implementation Panel. The members of the Panel, David Akoak for the Government of Nunavut, Charlie Evalik for NTI, and Terry Sewell for the Government of Canada, met on January 24th and agreed on a position which was reduced to written form on February 6, 2006. The consensus, which provided for an increase to \$15 million per year for the budgets of the Institutions of Public Government¹⁴ (an increase of approximately \$2 million per year) took into full account the recommendations in my Interim Report.

The resulting report of the Implementation Panel proposes specific adjustments to ongoing implementation funding for the Institutions of Public Government, as well as proposals for moving forward in the following areas: structural reforms of the Implementation Panel itself; implementation funding for the Government of Nunavut; a General Monitoring Plan; a fund to be administered by the Implementation Panel to help address issues such as capacity and governance of the Institutions of Public Government; and new approaches for use by the Implementation Panel in resolving outstanding disputes.

I believe the significance of the Working Group's achievement goes well beyond agreement on the figures. The Implementation Panel's proposals are not only consistent with my own in the Interim Report,

¹⁴ The increased levels apply only to the remainder of the 2003-2013 implementation period. Funding for the interim 2003-2006 levels (during the time when no agreement had been reached) was based on the latest offer made by Canada prior to the Conciliation.

but they (and the Working Group) went further and developed recommendations for improving the process in the future. Most importantly though, the Parties, through the Working Group and the subsequent Implementation Panel consensus, evidenced a new spirit of cooperation that ought to form the basis of a new relationship.

I endorse the report of the Implementation Panel. I have attached as an Appendix to this Report the letter from the Panel dated February 6, 2006 and the report to which it refers.

The funding issues are of the first importance; as a subject of this Conciliation, they have now been resolved.

This is my Final Report. It contains my recommendations regarding Article 23 of the *Nunavut Land Claims Agreement*, recommendations relating to the future of employment and education in Nunavut.

6.4 Overview

A. "Our Land": The Inuit and the Establishment of the Canadian Arctic

No brief summary can do justice to the history of Nunavut, which means "Our Land" in Inuktitut, the Inuit language.¹⁵ Nevertheless, something must be said about the 400-year relationship between the Inuit and the Crown, so that the context of the present negotiations can be understood and the dimensions of the present crisis appreciated.

Canada's Arctic region consists of the continental territories 'North of 60' and the huge cluster of islands that run from about 70 degrees North toward the Pole. For much of the year, polar ice covers most of the waterways in the far North, forming a solid white landscape from the edge of the continent to the North Pole. In the summer, much of the ice breaks up and the Arctic ice retreats, leaving most of the islands accessible by sea for at least one month of the year. In the last decade, however, we have observed, occurring quite suddenly, climate change that has substantially reduced the Arctic ice cover.

Inuit means "the people" in Inuktitut. In its modern form, the term refers to the Inuvialuit and Copper Inuit of the western Arctic, the Netsilik and Caribou Inuit of the central Arctic, the Iglulik and Baffinland Inuit of the eastern Arctic, the Ungava Inuit of northern Quebec, and the Labrador Inuit. The Canadian Inuit also share cultural and linguistic roots with the Inuit in Greenland, Alaska, and northeastern Siberia.

Prior to European contact, and indeed for most of the 400 years since, the Inuit lived in small nomadic multi-family hunting groups, migrating according to the seasons and the movements of the animals upon which they relied. In summer, the Inuit hunted the herds of caribou and fished in inland rivers and lakes, and put to sea in open boats to harvest whales. In winter, most Inuit lived at water's edge, hunting seals through holes in the ice and often traversing vast areas of the arctic floes in kayaks and open boats. Arctic hare, fox, muskoxen and walrus were also hunted for food and skins, and the Inuit diet was supplemented by eggs, shellfish, seaweed and berries.

The Inuit developed a sophisticated language, Inuktitut, in which they stored their collective knowledge and history. A defining characteristic of their society, which has served them well, is a deeply ingrained ethic of *Ningiqtuq*, or sharing.

The appearance of white people in the North was spearheaded by explorers, then fur traders and whalers. The clergy followed, offering salvation and schooling; then came representatives of government. In this the North resembles the pattern of historical development throughout Canada.

Volumes have been written about the history of the Arctic, especially the period of exploration beginning with Martin Frobisher's 1580 expedition. When you place the history of Western contact with the Inuit in its unique perspective, it is very much a story of a partnership – not always an equal partnership, to be sure – between, on the one hand, explorers, fur traders, and the Crown, and on the other, the Inuit.

The particular skills of the Inuit as hunters, trappers and guides made the Inuit a crucial part of successful exploration expeditions, of the Northern fur trade and, while it lasted, of the whaling industry. The Inuit guided Southern visitors safely on their travels; they hunted, fished and trapped to feed them; they built their snow-houses, they sewed the clothing that permitted their survival. They taught, when their guests

¹⁵ I generally use "Inuktitut", which means "like the Inuit", to encompass not only Inuktitut but also Inuinnaqtun, a variant spoken in the Kitikmeot Region of Nunavut.

were willing to learn. It is not fanciful to suggest that, but for the historical contribution of the Inuit, there would be no Canadian Arctic, and without the Canadian government, there would be no Nunavut. The Canadian adventure in the Arctic was always a joint venture.

The 1920s saw the establishment of a number of Royal Canadian Mounted Police posts in the High Arctic. The RCMP and their Inuit companions undertook extraordinary feats of navigation and endurance, as when the guide Nookapingwa led Inspector A.H. Joy, Constable Taggart and two dog teams 1700 miles from Dundas Harbour to Winter Harbour on Melville Island, then eastward to the Bache Peninsula by way of Loughheed, King Christian, Ellef Ringnes, Cornwall, and Axel Heiberg Islands in 1929. Other Inuit names from the period are equally illustrious: Eetookashoo, Kahdi (Peary's son), Quavigarsuaq, Kahkacho, Inuetuk and Seekeunguaq were some of the Inuit who traversed thousands of miles with RCMP officers by dogsled and boat in search of the ill-fated Kruger expedition in the 1930s.¹⁶

In 1944, on the St. Roch's second voyage, Captain Henry Larsen transited the Northwest Passage in one season. Joe Panipakoocho acted as guide, interpreter and hunter for the expedition. In fact the whole Panipakoocho family, eight in all, accompanied the RCMP, living in a tent on the cargo hatch.

Predictably, exploration gave way in many cases to exploitation, and many Inuit (even those who had only very infrequent contact with Southerners) became increasingly dependent on international markets for their economic wellbeing. And yet for the majority of Inuit, well into the twentieth century, life was still traditional, based on the same multi-family, usually nomadic groups which had engaged in harvesting for centuries.

Prior to the Second World War, the intrusion of Canadian authority into the Arctic was a minimalist affair, with a handful of RCMP officers, bureaucrats and Hudson's Bay Company employees manning small outposts in the region. While treaty-making proceeded with the Indians in the Mackenzie Valley and the Western Arctic, no corresponding attempt was made to treat with the Inuit with respect to their own immense lands in the Eastern Arctic. Canada did not set aside reserves for the Inuit, who were nevertheless regarded, if unofficially, to be wards of the federal government but were not brought under the *Indian Act*.¹⁷ In 1936, the Inuit were designated as a responsibility of the new Department of Mines and Resources. In 1939, in *Re Eskimos*,¹⁸ the Supreme Court of Canada held that the Inuit were "Indians" within the meaning of Section 91(24) of the *Constitution Act, 1867*, placing it beyond doubt that under the Constitution they were under the jurisdiction of the federal government.

After World War II, a sea-change occurred in Inuit life which threatened to forever alter the nature of their relationship with Canada, replacing what had been a period of partnership with a period of intensified colonization which threatened the heart of Inuit culture. The reasons for the postwar crisis are many and I need only touch on a few well-known historical events.

The end of World War II, and the resulting abundance of skilled and adventurous pilots, flying new and sturdy aircraft equipped as necessary with wheels, skis or floats, made travel to (and supply of) all but the most remote areas a year-round reality. Frobisher Bay airport, originally developed for the supply of Europe by the United States Air Force in World War II, became the main gateway to the Baffin region.

¹⁶ P. Schledermann, "The Muskox Patrol: High Arctic Sovereignty Revisited" (March 2003) 56 Arctic 101.

¹⁷ R. Quinn Duffy, *The Road to Nunavut: The Progress of the Eastern Arctic Inuit Since the Second World War*, (Kingston, ON: McGill-Queen's University Press, 1988) at pp. 7-10.

¹⁸ [1939] S.C.R. 104.

At the same time, the coming of the Cold War meant that the Arctic was suddenly central to strategic planning: the threat to North America of a Soviet attack over the North Pole led to the creation of the Distant Early Warning (DEW) Line of radar installations stretching along the 70th Parallel from Alaska to Greenland. Military aircraft patrolled the Arctic airspace, and nuclear submarines were known to cross the North Pole under the ice. The Canadian Armed Forces formed the Canadian Rangers, an Aboriginal-based reservist organization, and instituted a regular program of light infantry patrols to reinforce claims of Canadian sovereignty over the Arctic. These manoeuvres supplemented the joint RCMP-Inuit dogsled patrols that had been crisscrossing some of the most dangerous terrain for decades. In Nunavut today, sovereignty patrols are mainly conducted by Inuit members of the Canadian Rangers.¹⁹

Communications, previously limited even in the wireless age, became instantaneous with the advent of the satellite. As the North became accessible, so did its resources: fur traders, fishers and soldiers were followed by prospectors and geologists, although by the close of the 20th century their efforts had not in the Eastern Arctic led to the same enthusiasm for oil, gas and mineral exploration and development that has characterized much of the Western Arctic.²⁰

For the Inuit, the postwar period was marked by a series of events which brought economic and social distress. In 1949, the Arctic fox fur market collapsed, depriving many of the Inuit, who had used their hunting and survival skills to good effect as trappers, of their main source of income. In the 1980s, the European Community's ban on the import of Canadian seal pelts delivered a devastating financial blow to Inuit who had relied on sealing.

Regular contact between the Inuit and Southerners in the postwar period increased the incidence of epidemic disease. Influenza, tuberculosis, typhus and polio became at times widespread, and the ravaging of the population (and the federal government's apparent inaction) became the subject of outrage in Canada. Soon, the efficient provision of medical services became a primary goal of the official Canadian presence in the North. This, together with the introduction of formal schooling, facilitated Canada's policy of encouraging the Inuit to move away from traditional life on the land into the settlements.

A host of social and economic problems followed the shock of these changes. In *The Road to Nunavut*, R. Quinn Duffy wrote in 1988:

The chapters that follow chronicle the last 40 years of cultural near-extinction of the Inuit, from the years of the Second World War to the 1980s. During those 40 years the Inuit have sunk as low as any people could in dirt, degradation, disease and dependence.²¹

The postwar history of colonization of the Inuit, which followed a path that many contemporary commentators saw as one of inexorable cultural decline, highlights the remarkable character of the Inuit achievement in recent decades. Duffy's account goes on to describe the second characteristic change of the period he was chronicling: the emergence of the Inuit as a people. He continued:

But with that tenacity of spirit that sustained them through thousands of years in the harshest environment on earth, they are fighting to regain their cultural independence,

¹⁹ For an account of one such patrol, see Chris Nuttall-Smith, "Ice Warriors: Why Canada's puny force of Inuit rangers just might prevent the world's superpowers from controlling the Arctic", *Toronto Star*, Oct. 2005 at pp. 44 to 52.

²⁰ It should be noted that recently there has been greatly increased interest in mining properties in Nunavut and, in particular, a proposal for a port for shipment of ore at Grays Bay, 175 kilometres East of Kugluktuk.

²¹ R. Quinn Duffy, *The Road to Nunavut: The Progress of the Eastern Arctic Inuit Since the Second World War*, (Kingston, ON: McGill-Queen's University Press, 1988).

their self-respect, their identity as a unique people in the Canadian mosaic. And they are winning.

In a single generation, the Inuit forged a political cohesiveness previously unimagined. Where once the Inuit were dispersed in small, isolated and nomadic groups, advances in travel and communications and the gathering of the people into the settlements led to the development of what has been referred to, not inaccurately, as a sense of "Inuit nationalism".²²

It was this political cohesiveness and increasing confidence that enabled the Inuit, between 1976 and 1993, to negotiate a new partnership with Canada, a comprehensive settlement of land claims that is unique in North America.

B. The Nunavut Land Claim

The *Nunavut Land Claims Agreement* signed in 1993 is by far the largest of the four land claims agreements reached between Canadian governments and the Inuit.²³ It covers one-fifth of the Canadian land mass, an area twice the size of Ontario. If the Nunavut Settlement Area were an independent country, it would be the twelfth largest in the world; by the terms of the Agreement, the Inuit of Nunavut own in fee simple more land and subsurface rights than any other Aboriginal people in Canada.

The Inuit claim was originally presented to the Government of Canada in 1976 by the Inuit Tapirisat of Canada. From 1982 the Tungavik Federation of Nunavut represented the Inuit in negotiations. In 1990, the Tungavik Federation of Nunavut, the Government of Canada and the Government of the Northwest Territories entered into an agreement-in-principle. After the Inuit ratified the agreement-in-principle, a final agreement was successfully negotiated and the *Nunavut Land Claims Agreement* was signed in Iqaluit on May 25, 1993. Parliament accordingly passed the *Nunavut Land Claims Agreement Act* S.C. 1993 c. 29, and the Tungavik Federation of Nunavut was succeeded by the Nunavut Tunngavik Incorporated.²⁴

²² Marybelle Mitchell, *From Talking Chiefs to a Native Corporate Elite: The Birth of Class and Nationalism among Canadian Inuit* (Montréal: McGill Queen's University Press, 1996).

²³ The James Bay and Northern Quebec Agreement, settling outstanding Inuit claims in the province of Quebec, was signed in 1975 by the Inuit of Nunavik, Canada and Quebec. At the same time, the Grand Council of the Cree signed a companion land claims agreement with Canada and Quebec. In 1984, the Inuvialuit signed the first comprehensive land claim settlement in the Northwest Territories with the Government of Canada. Most recently, the Inuit of Nunatsiavut (Labrador), along with Canada and Newfoundland & Labrador, finalized the Labrador Inuit Land Claim Agreement, which was signed on January 22, 2005, and came into force on December 1, 2005.

²⁴ Nunavut Tunngavik Incorporated is a federal not-for-profit company. As successor to the Tungavik Federation of Nunavut, it has the responsibility of representing the Inuit as a Party to the *Nunavut Land Claims Agreement*. Its mandate is to ensure that the rights of the Inuit of Nunavut, as derived from the Agreement and other sources, are respected. NTI also pursues a variety of policy and program initiatives aimed at improving the economic, social and cultural conditions of Inuit. NTI is a member of Inuit Tapiriit Kanatami, the national Inuit organization.

NTI has a principal office in Iqaluit and other offices in Rankin Inlet, Cambridge Bay and Ottawa. The executive officers of NTI are elected directly by Inuit voters. Other members of its Board of Directors are made up of elected leaders of the three regional Inuit organizations in Nunavut, the Kitikmeot Inuit Association, the Kivalliq Inuit Association and the Qikiqtani Inuit Association. The three regional Inuit organizations carry out important implementation responsibilities under the Agreement and are also democratically constituted with accountability to Inuit communities and voters.

Some of NTI's programs and initiatives since 1993 have included: the operation of a support program for hunters; income support for elders; scholarships; financial contributions to economic development agencies; the setting up of the \$50 million Atuqtuarvik corporation to provide Inuit with business loans and equity investments; assistance in the financing of new regional health facilities; the co-management, with regional Inuit organizations, of Inuit owned lands; and the legal defence of Inuit hunting rights in the application of federal firearms legislation.

The *Nunavut Land Claims Agreement* for the first time explicitly recognized "the contributions of Inuit to Canada's history, identity and sovereignty in the Arctic". The Preamble to the Agreement states four objectives shared by the Parties to the Agreement:

to provide for certainty and clarity of rights to ownership and use of lands and resources, and of rights for Inuit to participate in decision-making concerning the use, management and conservation of land, water and resources, including the offshore;

to provide Inuit with wildlife harvesting rights and rights to participate in decision-making concerning wildlife harvesting;

to provide Inuit with financial compensation and means of participating in economic opportunities; [and]

to encourage self-reliance and the cultural and social well-being of Inuit[.]

Hicks & White summarize the Agreement as follows:

At the heart of the *Nunavut Land Claims Agreement* is a fundamental exchange between the Inuit of Nunavut and the federal Crown. For their part, the Nunavut Inuit agreed to surrender "any claims, rights, title and interests based on their assertion of an aboriginal title" anywhere in Canada (including the Nunavut Settlement Area - the area to which the terms of the land claim apply). In return, the Agreement set out an array of constitutionally protected rights and benefits that the Inuit of Nunavut will exercise and enjoy in perpetuity.²⁵

The terms of the Agreement are set out in 41 articles. The Agreement recognizes the title vested in the Inuit of Nunavut to 352,240 square kilometres of land in what was at the time the eastern part of the Northwest Territories, and Inuit subsurface rights to over 38,000 square kilometres in those same lands. The Inuit have priority rights to harvest wildlife for domestic, sport and commercial purposes throughout all the lands and waters covered by the Agreement. The Inuit (through NTI) also received financial compensation in the form of capital transfer payments of \$1.148 billion payable over a 14-year period. There is no provision for distribution of this fund to individual Inuit. It is held in trust to be used for programs for the benefit of Inuit beneficiaries.

Under the Agreement the Inuit share in royalties collected by Canada on non-renewable resources. The Agreement also contains an obligation on the part of developers to conclude impact and benefit agreements; a \$13 million training trust fund; and a federal commitment to establish three national parks in Nunavut.

The Agreement provides for the establishment of Institutions of Public Government (Article 10.1.1(b)) and through these same institutions for co-management by the Inuit and the federal and territorial governments of lands and resources within the Nunavut Settlement Area. The Nunavut Planning Commission is responsible for land-use monitoring (Article 11), the Nunavut Impact Review Board for environmental impact assessment (Article 12), the Nunavut Water Board for regulation of water use and management (Article 13), and the Nunavut Wildlife Management Board for management of wildlife and

²⁵ Jack Hicks and Graham White, "Nunavut: Inuit Self-Determination Through a Land Claim and Public Government?" in Dahl, Hicks and Jull, Eds., *Nunavut: Inuit Regain Control of Their Lands and Their Lives* (Copenhagen: International Work Group for Indigenous Affairs, 2000) at p. 33.

wildlife habitat (Article 5) within the Nunavut Settlement Area. These bodies are joint-management boards whose members are nominated by NTI, the Government of Canada and the Government of Nunavut. The Nunavut Surface Rights Tribunal, although not a co-management board,²⁶ is created pursuant to the Agreement (Article 21), with jurisdiction mainly with respect to disputes over access to lands and related matters, including compensation payable for access and consequent environmental harm.

Under the Agreement an Arbitration Board was established to resolve disputes that might arise under the NLCA, especially disputes among the Parties over the interpretation, application or implementation of the Agreement.

From the time the original claim was presented in 1976, the Inuit insisted that any comprehensive settlement of their land claim must include the establishment of a territorial government for Nunavut. The Inuit did not wish their claim to be subsumed within the then-existing Northwest Territories, which was demographically dominated by the more densely populated (and mainly non-Inuit) Western Arctic. Nor, however, did they seek an Aboriginal government: Nunavut was to be a public government, with full enfranchisement of Inuit and non-Inuit residents.

The Agreement contained, in Article 4, an undertaking by Canada to recommend legislation to Parliament to establish the Territory of Nunavut. In 1992 a plebiscite was held to confirm the boundary between the Northwest Territories and the new territory, and a Political Accord was developed pursuant to Article 4 outlining the types of powers, financing and scheduling involved in establishing the new territory. On April 1, 1999, Nunavut came into being as Canada's third and newest territory.

C. Nunavut Today

The population of Nunavut is today approaching 30,000, of whom 85 percent are Inuit. Even this figure, however, does not do justice to the dominance of the Inuit presence in the Territory: outside the larger centres of Iqaluit, Rankin Inlet and Cambridge Bay, the percentage of Inuit approaches 95 per cent. Approximately half the population of Nunavut resides in the Baffin region, with roughly 30 per cent in the Kivalliq (Keewatin) region and 20 per cent in the Kitikmeot region.

The Inuit, owing in part to their historical isolation and regional dominance, have retained their language to a degree that is quite exceptional among indigenous populations in North America, with fully 80 percent of Inuit in Nunavut reporting in the 2001 Census that they spoke Inuktitut. Thirty-five hundred Nunavut Inuit – 15 percent – are recorded in the same Census as speaking only Inuktitut.

Inuit communities are isolated from one another by lack of easy transportation but increasingly connected by telephone, satellite technology and the Internet. Only a handful of the communities have a population over 1,000, and the largest, Iqaluit, the capital, has a population of less than 7,000 residents.

Canadians are aware of the impact of European society on smaller Aboriginal societies. This is no less true of Nunavut.

²⁶ There is no requirement under the *Nunavut Waters and Nunavut Surface Rights Tribunal Act* S.C. 2002, c. 10 or the NLCA that each of the Parties be represented on the Tribunal, whose members are appointed by the Minister with the proviso that two members, and half the members of any panel dealing with a case involving Inuit Owned Lands, be residents of the Nunavut Settlement Area.

For a great many Inuit the loss of a way of life, without securing a sure foothold in the new dispensation, can bring with it individual and collective desolation. Alcohol and other substance-abuse problems are prevalent in many communities; family cohesiveness has suffered; crime, violence and suicide affect every community. Although improved access to health care has greatly increased life expectancy in recent decades, Inuit life expectancy is still ten years below the national average.

Owing to the high cost of construction materials, housing is expensive (construction costs per square foot are roughly three times the Canadian average) and in short supply. Living quarters are cramped: while the average number of occupants in the average Canadian dwelling is 2.39, in Nunavut it is 3.27, and in some communities much higher still. According to Statistics Canada, 54 percent of Nunavut residents live in "crowded" conditions, compared to a Canadian average of 7 percent. Over half of Nunavut's Inuit - 14,225 - live in public housing, with 1,000 families on the waiting list.

Even these figures do not do justice to the problem of overcrowding in Nunavut. As I have seen for myself, the cost of materials and the expense of heating dictates that houses in Nunavut are generally very small. Overcrowding of such small buildings, which for a substantial part of the year are closed virtually airtight to conserve heat, exacerbates the transmission of disease and contributes to persistent health problems such as Chronic Otitis Media (COM), a cause of hearing loss which afflicts one-third to one-half of Inuit children.

Universal education has been available to the Inuit for only the past 35 years. Opportunities for higher education have been sharply limited. Many young Inuit have nevertheless successfully completed high school, and some have gained a university degree or advanced professional qualification. But levels of educational achievement remain well below the national average; seventy-five percent of the Inuit labour force do not have a high school diploma. Even today, only one in four Inuit children entering the education system is expected to graduate from high school.

Economically, the Inuit face persistent challenges. Although the price of most goods is high owing to transportation costs to Northern communities, Nunavut's per capita income is 27 percent lower than in the rest of the country. There is no agricultural or manufacturing base. There have been mines opened in the past but they are now closed.

Hunting, fishing and trapping, once the mainstay of the economy of the North and a principal source of employment, now provide full time support for a relative handful of Inuit. These traditional activities, however, remain central to Inuit culture and identity, and most Inuit families, even in the larger settlements, continue to hunt and fish, using both traditional and modern technologies. The production of Inuit art, sculpture and clothing is another cultural mainstay, with more than 2,000 families reportedly deriving some of their income from this source.²⁷

Unemployment among the Inuit is very high, between 30 and 70 percent depending on the measure used and the community in question. As might be expected, unemployment is highest in the smaller and more isolated communities.

In 2005 Rodolfo Stavenhagen, the United Nations' Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, reported to the United Nations Committee on Human Rights:

²⁷ In the single community of Cape Dorset, which is well known for its printmaking and sculpture, fully 22% of residents report participating in the arts and crafts industries.

38. In Nunavut, the existing social housing units are among the oldest, smallest and most crowded in Canada. There is a severe housing shortage in Nunavut that adversely affects the health of Inuit, in particular of children, and it is estimated that 3,500 new units are needed over the next five years.

39. The overall health of Inuit continues to lag far behind that of other Canadians. Life expectancy is ten years lower than the rest of Canada. Many health indicators are getting worse. Arctic research shows that changes in traditional diets lead to increased health problems, particularly of mental health, characterized by increased rates of depression, seasonal affective disorder, anxiety and suicide. Inuit leaders are deeply concerned that the housing, education, health and suicide situation have reached crisis proportions and are not being addressed by the Federal Government.²⁸

²⁸ *Report of the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, Rodolfo Stavenhagen, on his mission to Canada* (21 May to 4 June 2004) (New York: United Nations, 2005) E/CN.4/2005/88/Add.3 at paras. 38-9.

6.5 Article 23 and the Future of Nunavut

A. The Creation of Nunavut

Nunavut came about in fulfillment of a promise made by Canada when the Inuit of what is now Nunavut settled their land claim in 1993.²⁹

Two prime ministers were in a sense present at the creation of Nunavut. When the *Nunavut Land Claims Agreement* was signed on May 25, 1993, Prime Minister Brian Mulroney spoke:

We are forging a new partnership, a real partnership. Not only between the Government of Canada and the future Government of Nunavut but between aboriginal and non-aboriginal Canadians.

In 1999, with the establishment of the new Territory, Prime Minister Jean Chrétien spoke:

...Canada is showing the world, once again, how we embrace many peoples and cultures. The new Government of Nunavut will reflect this diversity; incorporating the best of Inuit traditions and a modern system of open and accountable public government.

The *Nunavut Land Claims Agreement* provided for the creation of the new Territory. Its government was not to be an Aboriginal government, but a public government for the whole territory, where both Inuit and non-Inuit would have the right to vote and run for office.

John Amagoalik, often called the father of Nunavut, described the vision of Nunavut as

a public government with a democratically elected Legislative Assembly [which] will respect individual and collective rights as defined in the *Canadian Charter of Rights and Freedoms*. It will be a government that respects and reflects Canada's political traditions and institutions, and it will be a territory that remains firmly entrenched within the bounds of Canadian confederation.³⁰

Moreover, it was provided in Article 23 that the public service would be representative of the people of the territory. The full implications of this promise are only now becoming apparent.

The world took note of this extraordinary development in the Canadian Arctic. The *Manchester Guardian*, for example, wrote:

The emergence of Nunavut is unequivocally good news. While large tracts of the world are mired in war and insurgency, an ethnic minority has quietly negotiated an equitable deal with a central government that gives them the freedom to run their own affairs.³¹

²⁹ Article 4.1.1. of the *Nunavut Land Claims Agreement* said:

The Government of Canada will recommend to Parliament, as a government measure, legislation to establish, within a defined time period, a new Nunavut Territory, with its own Legislative Assembly and public government, separate from the Government of the remainder of the Northwest Territories.

³⁰ John Amagoalik, speech to Japanese parliamentarians visiting Iqaluit, September 1 1995, quoted in Hicks & White, *supra* note 25 at p. 64.

³¹ John Ryle, "What country are we in?" *Manchester Guardian*, February 22, 1999, quoted in Hicks & White, *supra* note 25 at p. 78.

TIME Magazine reported:

Canada's first experiment with de facto Native self – government – and only the second of its kind in the world. [It is] a socio-political experiment on an epic scale.³²

The *Globe and Mail* proclaimed:

Canada had done something of huge symbolic value... Nunavut is a powerful and worthy experiment [which] deserves to succeed.³³

Nunavut is a remarkable achievement. Three well-known scholars of the North described it as:

...the winning back by a numerically small and scattered hunter-gatherer population of their ancient territory under modern European constitutional and legal systems.³⁴

The Government of Nunavut was to be a public government, one that, in the best democratic tradition, would be a government of the people, by the people, and for the people. In Nunavut, "the people" are overwhelmingly Inuit.

The Inuit would be able to elect their own to the Legislative Assembly. What about the public service? This is addressed in Article 23.

Article 23.2.1 sets out the objective: "to increase Inuit participation in government employment ... to a representative level." Under Article 23.1.1 this means a representative level of Inuit employment "within all occupational groupings and grade levels".

In Nunavut employment in the public service, if it is to be employment at a representative level, must therefore be 85 per cent Inuit employment "within all occupational groupings and grade levels".

Article 23 may bear a resemblance to a conventional equity clause of a type well known. Employment equity is not obviously a land and resources issue, to be included in a land claims agreement. But neither is a provision to establish a new Territory. If the one were included in the *Nunavut Land Claims Agreement* the other had to follow. It is in fact an equity clause for a majority.

B. A Unique Jurisdiction in Canada

Nunavut was to be a jurisdiction unique in Canada. Its population would consist mainly of Inuit, speaking their own language, Inuktitut. It would not be predominately English-speaking or French-speaking, but would have an overwhelming majority consisting of an Aboriginal people speaking a single Aboriginal language. There is no other such province or territory.

Over the last twenty years, Nunavut's population has seen the fastest rate of growth in Canada, a rate of growth that is still twice the national average. Nunavut's population has doubled in a single generation,

³² Andrew Purvis, "Nunavut gets ready: The hoopla is about to start for the launch of Canada's huge, largely Inuit-run, self-governing Arctic territory. But how prepared is everyone?", *TIME*, March 29, 1999, quoted in Hicks & White, *Ibid*.

³³ "Charting new territory" (editorial), *Globe and Mail*, April 3, 1999, quoted in Hicks & White, *Ibid*.

³⁴ Jens Dahl, Jack Hicks and Peter Jull, "Introduction" in Dahl, Hicks and Jull, Eds., *Nunavut: Inuit Regain Control of Their Lands and Their Lives* (Copenhagen: International Work Group for Indigenous Affairs, 2000) at p. 15.

from 15,000 in 1981 to almost 30,000 today. It is the youngest population in Canada, with approximately 60 per cent of residents under 25 years of age, 92 per cent of whom are Inuit.

The need for educational and career opportunities for the Inuit is pressing. The prevalence of Inuktitut as a first language of most Inuit, and the fact that 15 percent of Inuit have no other language, limits Inuit opportunities for jobs in government, and the ability of government (a great many in the public service speak only English) to serve the needs of the population of the territory.

Canada has said that, in terms of governmental arrangements, Nunavut "mirrors" the Northwest Territories and the Yukon. This is true as far as it goes, in that all three territories are constitutionally the creatures of Parliament and the bulk of territorial government funding is provided by the federal government.

Ninety-two per cent of the Government of Nunavut's revenue comes from Ottawa; in the Northwest Territories and the Yukon the figures are approximately 80 and 70 per cent respectively. In 2002 Newfoundland, the province most dependent on federal transfers, received 45 per cent of its revenue from Ottawa. In that year, the average among 'have-not' provinces was 34 per cent; for all provinces it was 29 per cent.³⁵ Hicks & White, writing in 2002, pointed out:

... Canadians will need to be reminded that in their early days many parts of the country enjoyed massive federal government infrastructure spending on railways, canals and other facilities necessary for economic development [the CNR, the St. Lawrence Seaway]. In contrast, the money Nunavut gets from Ottawa covers only costs of running the government; Nunavut has yet to see anything like the massive federal spending on economic development that many provinces enjoyed for decades.³⁶

But the demographics of the three territories are quite a different matter. In this respect Nunavut does not mirror the Northwest Territories and the Yukon.

Until 1999 (when Nunavut was carved out of the Eastern Arctic) the Northwest Territories had a majority Aboriginal population (61 percent) but no single Aboriginal group constituted a majority of the territory's (then) 65,000 residents. The Inuit and the Inuvialuit (the Inuit of the Western Arctic) were together around 37 percent of the population. There were five Dene peoples, whose languages are related to each other but are by no means identical, who constituted about 17 percent of the population; the Métis making up about 7 percent. English-speakers constituted almost all of the remaining 39 percent.³⁷

In the Northwest Territories today Aboriginal people may constitute around 45 percent of the population. The Dene peoples and the Inuvialuit are moving to develop their own Aboriginal governments within the framework of the Territory.

In the Yukon the First Nations constitute about 25 percent of the population. There, too, the First Nations are engaged in establishing Aboriginal governments.

The point is that in neither the Northwest Territories or the Yukon is there a majority, let alone an overwhelming majority, of Aboriginal people speaking a single Aboriginal language.

³⁵ Hicks & White, *supra* note 25 at p. 88, citing Finance Canada data.

³⁶ *Ibid.* at p. 87.

³⁷ There were a number of Francophones in Fort Smith and Iqaluit, perhaps 1 per cent of the population.

Nunavut remains, in terms of the reality on the ground, a jurisdiction where the first language of the vast majority of the population is Inuktitut. Achieving the objective of Article 23 means that the Inuit must over time occupy 85 per cent of the positions in all occupational groupings and at all grade levels in the public service, and this necessarily implies that Inuktitut must be the principal language of the workplace and that government services must be provided in Inuktitut.

Mary Simon, Canada's Ambassador to the Circumpolar Arctic, speaking at Queen's University said:
...the very scale of the Nunavut undertaking means it cannot be overlooked...For the first time in Canadian history, with the partial exception of the creation of Manitoba in 1870, a member of the federal-provincial-territorial club is being admitted for the precise purpose of supplying a specific Aboriginal people with an enhanced opportunity for self-determination. This is ground-breaking stuff.³⁸

I have said that Nunavut is unique. It is true that in 1870, when Manitoba entered Confederation as the "postage stamp" province, 10,000 of its population of 12,000 were Métis, the majority of them French-speaking.

The *Manitoba Act* of 1870 erected a new province. It provided that the official languages of the new province were to be English and French. There were guarantees for public funding for Roman Catholic schools, where instruction had always been in French. The *Manitoba Act* contained as well provisions to protect existing Métis lands and to establish a Métis land base.

Within a decade a wave of settlement completely altered the demographics of the new province. The Métis became a minority. The promises of the *Manitoba Act* relating to French as an official language and public funding for Catholic schools were soon thereafter abandoned by the provincial legislature, and Ottawa was not prepared to take steps effectively to enforce these rights. They were resolved by litigation. In the 1890s supporters of public funding for Catholic schools in Manitoba won their case in the Supreme Court of Canada but lost it in the Privy Council.³⁹ It was not until the 1970s and 1980s that the place of French as an official language of the province was upheld by the Supreme Court of Canada.⁴⁰

The *Manitoba Act* contained no provision resembling Article 23. Manitoba's was to be a public government. Even had the Métis remained a majority of the provincial electorate, they had no claim under the *Manitoba Act* to a majority of places in the public service. In any event, the government of Manitoba was not conceived to be the new province's principal employer. Manitoba was not the Arctic. Manitoba was at the time confined to its "postage stamp" borders (there were changes in its boundaries, but not until 1912 did the province extend to the 60th parallel). Agriculture, not government, was to be the occupation of Manitobans.

Nunavut is unique today in Canada. It has no foreseeable counterpart.

C. The Extent of Inuit Representation in the Public Service of Nunavut

Since government is the principal employer in Nunavut, opening up opportunities for Inuit employment in the public service is of paramount importance to the Inuit. Under Article 23 of the *Nunavut Land Claims*

³⁸ Hicks & White, *supra* note 25 at p. 91.

³⁹ *Barrett v. City of Winnipeg* (1892) 19 S.C.R. 374, [1892] A.C. 445 (P.C.); see also *Brophy v. A.G. Manitoba* (1893) 22 S.C.R. 577, [1895] A.C. 202 (P.C.).

⁴⁰ *A.G. Manitoba v. Forest* [1979] 2 S.C.R. 1032; *Reference re Manitoba Language Rights* [1985] 1 S.C.R. 212.

Agreement the Parties agreed that they would pursue the objective of achieving a representative level of Inuit employment in all three levels of government – federal, territorial and municipal – within Nunavut.

Article 23.2.1 reads:

The objective of this Article is to increase Inuit participation in government employment in the Nunavut Settlement Area to a representative level.

"Representative level" meant, in 1993 as it does today, approximately 85 percent. The objective is therefore to increase the level of Inuit employment in the public service to match the proportion of Inuit in the population.

The fact is that the objective of Article 23 has not nearly been realized. Although the figures can fluctuate almost daily, it seems uncontroversial that Inuit representation calculated as a percentage of employment has stalled at around 45 per cent.⁴¹ The shortfall is especially apparent in the executive, management, professional and para-professional positions.

The question of responsibility for implementing Article 23, that is, for achieving the objective of representative Inuit employment in the public service, is still outstanding. Moreover, assuming the issue of where responsibility lies for achieving the objective of Article 23 were to be resolved, the question of how to do it has only recently been squarely addressed by all the Parties.

Currently the Government of Nunavut has 3200 employees and Canada has 300 employees in the territory. In Nunavut government is, by far, not only the largest employer, but also represents the largest employment sector. This is so throughout the Arctic and sub-Arctic: in Nunavut, the NWT, the Yukon, Alaska and Greenland. These territories lie for the most part well beyond the agricultural frontier.

Villagers in the Arctic and sub-Arctic depend on employment provided by government activities; even the private sector in these villages is often the indirect product of government expenditures. This is typical of remote Inuit communities throughout Arctic and sub-Arctic regions from Alaska to Greenland. Industrial development may have arrived at some places in the Arctic and sub-Arctic, but not as yet in Nunavut. Thus the paramount importance in all these jurisdictions of government as an employer, but especially in Nunavut.

In Nunavut a policy of decentralization has actually been followed not only so that government will be responsive to local concerns but also to spread the government payroll across as much of the territory as possible.

Iqaluit is the capital. The Premier and members of the Cabinet are located there; it is where the Legislative Assembly sits. But government departments are distributed around the territory, located in eight intermediate – sized communities to ensure that government employment and the opportunities it represents are not confined to the capital.⁴²

⁴¹ Representation levels for Inuit in Nunavut's municipal governments are said to be in the neighbourhood of 90%, but a large number of the local positions held by Inuit are part-time: PriceWaterhouseCoopers, *The Cost of Not Successfully Implementing Article 23: Representative Employment for Inuit Within the Government* (February 17, 2003, report commissioned by the Government of Nunavut and NTI), at pp. 26-27.

⁴² According to Hicks & White, *supra* note 25 at p. 65-66:

For some it was important that the Government of Nunavut be decentralized so that as many communities as possible could share in the economic benefits arising from the stable, well-paid jobs that would come with the new government. Others believed that locating middle management and professional positions in

The erection of the Government of Nunavut is not however, a "make work" proposition. The government of this vast territory is responsible for the welfare of almost 30,000 people in 27 scattered communities.

There are, as I say, 3200 jobs in the Government of Nunavut. The Inuit today occupy 45 percent of those positions. Nobody wants to parse employment to each occupational group down to the last percentile. But, however you calculate the matter today, there is an Inuit shortfall. Today the Inuit have only 45 percent of the 3200 jobs, or 1440 jobs instead of the 2720 they would have at 85 percent representation. The shortfall amounts to 1280 jobs. Similar calculations could be made for the federal government, where the shortfall would be over 150 positions. Overall, the numbers tell us that there are in the vicinity of 1500 jobs that could be claimed by Inuit had they the necessary skills.

It is, on one level, remarkable to have 45 percent Inuit employment in the Government of Nunavut after only six years. But the figure of 45 percent Inuit employment across the board is misleading. The Inuit are well represented in the administrative support categories. It is the shortfall in the executive, management, professional and para-professional areas that represents the most significant failure, as the following figures demonstrate:

Inuit Employment within the Territorial Government (Dec. 2003)

Executive	48 %	Senior Management	24 %
Middle Management	20 %	Professional	25 %
Paraprofessional	59 %	Administrative Support	84 %

Statistics of the number of Inuit working within the federal government in Nunavut reveal a similar deficit, with the majority of Inuit employed in administrative support.

The figures support the conclusion that, by and large, the problem is one of supply, not demand. In 2001, of the Inuit between the ages of 20 and 45 who were unemployed or not in the labour force, 83 percent had not completed high school. By contrast, of the Inuit who had some university education, fully 92 percent were employed. Clearly education is the key to moving toward fulfillment of the objective of Article 23.

The Nunavut Implementation Commission recommended that 50 per cent of jobs at all levels of the Government of Nunavut be filled by Inuit at start-up in 1999, with representative levels to be achieved by 2008. The original goal was very nearly met, but the situation has improved little since then, and the ultimate goal – 85 percent Inuit employment – has been extended by both the federal and territorial governments to 2020. In other words, the initial goals were unrealistic. They could not possibly have been met. My concern is that we adopt measures that will actually enable full Inuit representation in their own public service by the new target date of 2020.

D. The Scope of Article 23

This brings me to the dispute about the meaning of Article 23, and who is responsible to see that its objective is attained. That objective is set out in Article 23.2.1:

The objective of this Article is to increase Inuit participation in government

communities would encourage Inuit participation in the bureaucracy. Still others saw a decentralized government as better suited to traditional Inuit political culture.

employment in the Nunavut Settlement Area to a representative level. It is recognized that the achievement of this objective will require initiatives by Inuit and by Government.

Article 23.1.1 defines "government employment" as employment in both the federal and territorial governments in Nunavut. As for the "initiatives" to be taken, Article 1.1.1 of the Agreement says:

'Government' means the Government of Canada or the Territorial Government or both, as the context requires, depending on their jurisdiction and the subject matter referred to, or as determined pursuant to Section 1.1.6. [emphasis added]

Given the central place of Article 23 in the future success of Nunavut, "Government" must, for purposes of achieving representative Inuit employment, refer to both the Government of Canada and the Government of Nunavut. The "context", if you will, requires it. Both governments are implicated in the achievement of the objective of Article 23. It is a shared objective.

But the Agreement itself sets out only a few explicit obligations of the federal government toward the objective of full Inuit employment. Under Article 23, Canada agreed to three things: conducting a labour force analysis (Article 23.3), developing Inuit employment plans (Article 23.4) and pre-employment training plans (Article 23.5).

Canada has in the past said that, insofar as it has any obligations under Article 23, they have been fulfilled: the labour force analysis has been completed, Inuit employment plans have been completed, and pre-employment training plans for Inuit have been completed.

Canada has a point. But I have been asked to consider new approaches to implementation; I believe that a new approach requires a greater regard for objectives and less for the fine print of obligations.

I said in my Interim Report that treaty making and treaty implementation are distinct but not strictly isolated concepts.⁴³ I am of the view that the implementation process must be approached broadly with a view to achieving the purposes of the *Nunavut Land Claims Agreement*.

The *Nunavut Land Claims Agreement* consists mainly of specific provisions for the management of the land and resources of Nunavut. But unusually it included a promise to establish a government for Nunavut, a government which would be representative of the people of Nunavut. It is true that it was agreed that Article 4 was not to be entrenched in the Constitution. But Article 23 *is* entrenched in the Constitution. It is there and remains unfulfilled. It is always speaking; it will continue to speak until it is fulfilled.

My approach to implementation of the Agreement is premised on three underlying considerations: the status of the *Nunavut Land Claims Agreement* as a constitutional document; the principle that the honour of the Crown must be observed in all its dealings with the Inuit, including throughout the implementation

⁴³ By "treaties" we usually mean treaties with the First Nations of Canada. The modern land claims agreements, beginning with the James Bay and Northern Quebec Agreement of 1975, are properly described as land claims agreements in the *Constitution Acts, 1982 and 1985*. I think it is appropriate to refer to the *Nunavut Land Claims Agreement* as a land claims agreement to distinguish it from treaties with First Nations. I refer to "treaties" in my discussion here of implementation because it is in keeping with the vocabulary more often used in the jurisprudence, and it is an expression that encompasses land claims agreements.

process;⁴⁴ and the terms set out in the Agreement itself. It is also based on the observation (and indeed the consensus of all of those who participated in our discussions) that a new approach is needed because the old approach has certainly not worked to anyone's satisfaction.

I believe the only approach to Article 23 consistent with the honour of the Crown is to look beyond the specific obligations listed in Article 23. Moreover, it is the only approach likely to succeed.

It is simply not in keeping with the immense task of building a country to haggle over the meaning of words that were never adequate to the subject. I am not engaged in winking out the meaning of language used by the Parties when it must be obvious they did not appreciate the true dimensions of what would be required to fulfill the shared objective of Article 23.

It is now plain that the objective of Article 23 cannot be met through a focus on the 'demand-side' of Inuit employment. The governmental workplace, in other words, has absorbed all available qualified Inuit and the figures show that we are nowhere near meeting the target. Until the emphasis is placed on increasing the *supply* of qualified Inuit, the objective of Article 23 will elude us.

A country's education system is expected to equip its people with the skills, particularly the language skills, necessary to take up gainful employment. You can't speak of employment without speaking of education.

The *Nunavut Land Claims Agreement* says nothing about improving the primary and secondary education provided to the Inuit or about achievement in the schools. Nor does Article 23 say anything about language (apart from instruction in Inuktitut as a part of pre-employment training for Inuit) and certainly nothing about Inuktitut as a language of the workplace and as a language in which the people of Nunavut are entitled to receive government services. Yet if we are to achieve the objective of Article 23, both employment and education are implicated.

My point is that Articles 23.3, 23.4 and 23.5 cannot be treated as exhaustive of Canada's obligations any more than they are exhaustive of the obligations of the Inuit. More needs to be done, all agree, and if not the Parties, who will do it?

In 1993 the ramifications of Article 23 and the extent of the measures that would be required to implement the objective of that provision were not apparent. What *was* apparent to all at that time was the importance of the objective of representative Inuit employment.

⁴⁴ Since my Interim Report, yet another decision of the Supreme Court of Canada has emphasized this point. In *Mikisew Cree First Nation v. Canada* 2005 SCC 69, Justice Binnie, writing for all nine judges, described the signing of a treaty as the beginning of a process, not a freezing in time of a fixed set of obligations. Binnie J. wrote at para. 27:

Thus none of the parties in 1899 expected that Treaty 8 constituted a finished land use blueprint. Treaty 8 signaled the advancing dawn of a period of transition. [emphasis added]

He continued at para. 33:

Both the historical context and the inevitable tensions underlying implementation of Treaty demand a "process" by which lands may be transferred from the one category (where the First Nations retain rights to hunt, fish and trap) to the other category (where they do not). The content of the process is dictated by the duty of the Crown to act honourably.

He expanded on the Court's view of the honour of the Crown as it relates to treaties at para. 51:

The honour of the Crown is itself a fundamental concept governing treaty interpretation and application...

And at para. 57:

...the honour of the Crown infuses every treaty and the performance of every treaty obligation.

Canada has understood all along that issues broader than the labour force analysis, Inuit employment plans and pre-employment plans had to be addressed in order to achieve the objective of Article 23. On May 28, 2003 Alain Jolicoeur, Deputy Minister of Indian Affairs and Northern Development, wrote to NTI regarding, among other subjects, Article 23. He proposed:

Article 23 - The parties would work on a two-part approach: 1) agreement on specific commitments (including a specified financial commitment) by Canada, with respect to labour force survey, employment plans, pre-employment training and support measures referenced in Article 23 of the *Nunavut Land Claims Agreement* (NLCA); and 2) agreement to establish a process and plan for Canada, [the Government of Nunavut] and NTI to cooperatively address the broader issues of education attainment, language of work and social issues which are impacting on the availability and ability of Inuit to qualify for public sector employment. [emphasis added]

Mr. Jolicoeur was segregating what he perceived to be Canada's specific obligations under Article 23 from "broader issues of education attainment, language of work and social issues which are impacting on the availability and ability of Inuit to qualify for public sector employment." I don't wish to attribute any legal significance to the Jolicoeur letter; it is simply a demonstration that all Parties have recognized the obvious: that achieving the objective of representative Inuit employment requires addressing the "broader issues" that lie beyond the specific measures set out in the Agreement itself.

This is where we are today. If land claims implementation in Nunavut is to be anything more than a barren search for avoidance of responsibility, the "broader issues" must be addressed, not only by Nunavut, but by Canada. They necessarily arise out of Article 23, because it is impossible to have an intelligent conversation about the objective of Article 23 without discussing them.⁴⁵ It is only by addressing the "broader issues" that we can breathe life into Article 23.

It will be my recommendation that the only way in which we can fulfill the objective of Article 23 is by adopting specific measures in the near term which will increase Inuit representation in the public service and, for the long term, establishing in Nunavut a comprehensive program of bilingual education in Inuktitut and English.

⁴⁵ There has been, over the years, much discussion about the 1992 Memorandum of Understanding (MOU). This document, signed by Canada, the Government of the Northwest Territories and NTI set out the 'guiding principles' for financing the Institutions of Public Government and incremental funding for the Government of Nunavut. Although NTI participated in the negotiations regarding the Institutions of Public Government, the "increments" were negotiated solely between Canada and GNWT; the Government of Nunavut fell heir to the MOU.

The Inuit were not a party to the MOU, and it forms no part of the framework of obligations set out in the *Nunavut Land Claims Agreement*. It cannot, in other words, be of help in interpreting Article 23.

6.6 Bilingual Education

A. The Importance of English

It may seem strange to begin a consideration of bilingual education with a discussion about education in English. It is necessary, though, to understand that when I emphasize the importance of producing bilingual high school graduates, it is not only their skills in Inuktitut that matter.

Most of the positions in government for which few Inuit qualify are those which require some sort of post-secondary or professional qualification. Nunavut has a population in the vicinity of 30,000 souls, about the size of a medium-sized town, and it is spread across 27 isolated communities. While extraordinary efforts have been made – often successfully – to provide post-secondary courses in Nunavut (the nursing and teacher training programs, and the Akitsiraq Law Program, for instance), it is simply not possible to provide the full spectrum of required courses in place. Even where it is possible to bring courses to the communities, advanced education is of necessity in English. Nunavut needs a generation of executives and managers, computer software designers, architects, audiologists, nurses, doctors, lawyers, accountants,⁴⁶ x-ray technicians, RCMP members and, of course, teachers. It is likely that few of them will receive their post-secondary education in Inuktitut.

It is the objective of the Government of Nunavut to make Inuktitut the principal language of the workplace. In fact, in many departments it will be the principal language of the workplace. Nevertheless, in those departments where scientific and technical knowledge are essential, and where regular contact with the outside world is important, it is English that will be the principal language of the workplace.

A central objective of the Nunavut education system, therefore, must be to produce high school graduates whose ability to function in English enables them to enter colleges and universities in southern Canada and to achieve success in their chosen programs, so that they can qualify for responsible positions in their own public service.

Given the importance of English to the Inuit, it may be asked, why not simply educate children in that language only? Is there any reason to preserve Inuktitut in the schools, let alone dramatically increase its use, as I am recommending?

B. The Importance of Inuktitut

There are a number of reasons why English-only education is not the answer in Nunavut.

First and most obviously, the population of Nunavut is, in varying degrees, a bilingual population. Inuktitut, despite an advanced stage of erosion in the Inuinnaqtun communities and continued endangerment elsewhere, continues to be the first-acquired language of Inuit children and for most children remains the most-used language in the home. It is an effective base from which to build advanced language skills when the children progress through the school system. It is clear from the academic literature that loss of first language skills, while often not an apparent handicap, nevertheless can significantly retard academic progress:

⁴⁶ The Auditor General's 2005 Report to the Legislative Assembly of Nunavut notes the shortage of trained accountants, particularly in the smaller communities, and recommends that the Government of Nunavut undertake a program, based on the example of the Akitsiraq Law School, to produce Inuit accountants.

In situations of face-to-face peer interaction, conversation concerning familiar topics, where the situational context coincides with the topic, the [aboriginal] child will be able to express him or herself fluently and understand messages in a way that does not distinguish him or her from other native speakers of [English].

However, aside from the erosion of the indigenous language itself, the issue that concerns teachers and parents is the possible effect of language loss on the student's ability to perform in academic situations, to be able to use language for the higher-order, literacy-related school tasks that with each grade become more and more challenging. For many bilingual children who undergo subtractive language loss, this very process may affect their ability to fully develop these kinds of literacy-related language skills, the broad category of discourse competencies that Cummins and Swain (1987) have termed Cognitive Academic Language Proficiency.⁴⁷

Also, paradoxically, it has been demonstrated that effective academic use of a child's second language (in Nunavut, this means English) is enhanced through the promotion of the first, indigenous language. Francis and Reyhner conclude a review of the literature on the subject with the following:

[A]voiding the negative consequences of subtractive bilingualism and promoting dual language proficiency in children will not only contribute to the historical continuity of the community's language, but will provide for children the most favourable conditions for success in school. Among these favourable conditions are those that provide for effective learning of a second language and for using it as a tool for cognitively demanding, higher-order thinking.⁴⁸

The second reason to avoid this "subtractive" unilingual education is that, because Inuktitut is the first language of most, and the *only* language of a significant minority (15 percent) of Inuit in Nunavut, Inuktitut is, and must continue to be, the language of delivery of government services in the communities. You need only visit the smaller communities, as I have, to understand how absurd would be a government operating there in English only. Bringing up a new generation of English-only public servants would effectively deny or severely limit access to government for many, if not most, of the citizens the government is meant to serve.

Third, Inuktitut is the vessel of Inuit culture. It grows out of a particular worldview. The Inuit want to remain true to their past; in Pascal's phrase, they want to become what they are. Inuktitut is an integral part of Inuit identity. Of course, collective and individual identity may be nourished by other means. But where a people's language thrives, their identity is more likely to be secure. In *Ford v. Quebec (A.G.)* [1988] 2 S.C.R. 712 at 748-9 the Supreme Court of Canada wrote:

Language is so intimately related to the form and content of expression that there cannot be true freedom of expression by means of language if one is prohibited from using the language of one's choice. Language is not merely a means or medium of expression, it colours the content and means of expression. It is... a means by which a people may express its cultural identity. It is also the means by which the individual expresses his or her personal identity and sense of individuality.

⁴⁷ Norbert Francis and Jon Reyhner, *Language and Literacy Teaching for Indigenous Education[:]: A Bilingual Approach* (Clevedon, England, and Toronto: Multilingual Matters Inc., 2002) at p. 70-71

⁴⁸ *Ibid.* at 73.

But the main reason why English cannot be the single language of instruction is that the Inuit do not want it to be. In the 2001 Census fully 87 percent of Inuit responded that "the Inuit language is very important to learn, re-learn or maintain." The Inuit are a majority in Nunavut but it is a majority besieged by the onslaught of English, which is pervasive, in books, magazines, newspapers, television, radio, and popular music. The prevalence of English threatens to crowd out their own language.

There is an almost universal desire among the Inuit to avoid loss or extinguishment of their language. This is so among not only Inuktitut speakers but also even stronger among those who speak Innuinaqtun, the most seriously endangered variant of the Inuit language in Nunavut.

English is, in many ways, the language of colonialism. But when it is mastered by the Inuit it is also the language they use to speak to Canadians and the world. It can be an enormous asset to them. For Inuktitut to survive, it has to counteract the competitive dominance of English. Yet the Inuit understand that they must speak English too; they want their children to be competent in both languages.

There is one thing to add about educating Aboriginal children in English only. We have tried it and it doesn't work. The Indian residential schools were established in order to detach Aboriginal children from their own culture, and the principal means was to deny them the right to use their own languages and require them to use only English. It led to tragedy.

In Nunavut today, the schools in Kugluktuk and Cambridge Bay have an all-English program and graduation rates there are no better than in the other regions of Nunavut, where an all-English system of instruction prevails after Grade 3.

Loss of language and educational underachievement are linked. The strengthening of Inuktitut in the school, the home and the community can bring improvement in achievement in both Inuktitut and English.

C. The Current State of the Inuktitut Language in Nunavut

Inuktitut is still the dominant language of Nunavut. It has three times as many speakers as English. The situation is reversed in the Yukon and the Northwest Territories; there English is the dominant language by far. The extent of Inuktitut usage in Nunavut is described by Hicks & White:

According to Statistics Canada's 1991 Aboriginal Peoples Survey, 96 per cent of adult (defined as age 15 and over) Inuit in Nunavut speak Inuktitut. In the 1996 Census 71 per cent of people living in Nunavut reported Inuktitut as their 'mother tongue', and 60 per cent reported Inuktitut as their 'home language'. English is the 'home language' of 35 per cent of all residents and the territory also has a small but vibrant Francophone community – most of which resides in Iqaluit. 15 per cent of the population speaks neither English nor French.

The language spoken by Inuit of Nunavut consists of seven dialects, which are essentially variations on a single language. Six of these dialects are collectively referred to as Inuktitut, and are written using a Syllabic writing system. The dialect spoken by the residents of the communities of Kugluktuk and Cambridge Bay, in the western part of the Kitikmeot region, is called Inuinaqtun – and is written in Roman orthography. (By

contrast, the Dene of the Yukon and Northwest Territories comprise several different peoples each speaking a distinctive language.)⁴⁹

More recent Census data bear out the prevalence of Inuktitut among the Inuit of Nunavut. 2001 figures showed 99 percent understand the language "well or relatively well"; 94 percent report speaking it to that same standard, and 71 percent report using "Inuit language at home all or much of the time."

For thousands of years, Inuktitut was an oral language. In the 19th Century, two systems of writing were developed. One uses Roman orthography – that is, the familiar letters of the English alphabet – to spell out the words. A second, known as Syllabics, uses symbols to represent the syllables of the spoken language. In Nunavut, except for the Kitikmeot region, the written language is rendered in Syllabics. In Kitikmeot, Innuinaqtun is rendered in a Roman orthography. In the Western Arctic, the Inuvialuit use a Roman orthography; so also the Inuit of Labrador.

In the Inuit heartland of Canada, in Nunavut and Nunavik (the home of the Inuit of northern Quebec), however, Syllabics prevails. Nunavut historian Kenn Harper writes:

In the eastern Canadian Arctic, excluding Labrador, Inuit use a Syllabic writing system. This non-alphabetic system was developed first for the Cree by a missionary, James Evans. It was adapted to the Inuit language by two missionaries, John Hordern and E.A. Watkins, but the major work in promoting its use among Inuit was done by the Anglican, Rev. Edmund James Peck, still remembered by his Inuktitut name, Uqammak. He worked first in Arctic Quebec for almost two decades before establishing a mission in Baffin in 1894. His efforts, and those of the Inuit catechists he trained, notably Luke Kidlapik, Joseph Pudloo and Peter Tooloogakjuak, resulted in Syllabics being used by Inuit of the Baffin and Keewatin; when the Roman Catholic church established its first missions in the Keewatin region, they too used Syllabics.⁵⁰

Harper continues:

Before the advent of modern computer technology, Syllabics was a costly system to maintain. Today, however, there is probably little, if any, cost premium to publishing in Syllabics. No matter what orthography is used translation costs will remain constant.⁵¹

Inuktitut still prospers in Nunavut, but it faces serious challenges. The depth of language –that unique facility of expression that improves with age – must be fostered. Inuktitut must not only be preserved, it must grow and adapt: vocabulary has to be developed to permit communication of modern ideas. Things must have names in order for the language to be one truly suitable for all aspects of daily work in government and the private sector.

The loss of their language among children, exposed as they are to English in ever-broadening areas of media and in their social lives, is of particular concern. Francis and Reyhner write:

[S]ubtractive bilingualism involves the loss, sometimes gradual, of the child's first, or primary, language. If the indigenous language community has made the decision to work

⁴⁹ Hicks & White, *supra* note 25 at p. 100, fn. 48.

⁵⁰ Kenn Harper, "Inuit Writing Systems in Nunavut" in Dahl, Hicks and Jull, Eds., *Nunavut: Inuit Regain Control of Their Lands and Their Lives* (Copenhagen: International Work Group for Indigenous Affairs, 2000) at p. 155.

⁵¹ *Ibid.* at p. 163.

toward the revitalization of their ancestral language, its widespread and early erosion among children represents a clear danger signal. If not reversed, the permanent and irreversible loss of the language is simply a matter [of] time.⁵²

The Inuit of Nunavut are faced with the erosion of Inuit language, knowledge and culture. Unless serious measures are taken, there will over time be a gradual extinction of Inuktitut, or at best its retention as a curiosity, imperfectly preserved and irrelevant to the daily life of its speakers.⁵³

D. The Need for Effective Bilingual Education Has Long Been Recognized

In 2000 the Government of Nunavut published the Bathurst Mandate, expressing the goal of seeing Nunavut become by 2020 "a fully functioning bilingual society, in Inuktitut and English". Also in that year, the Government of Nunavut commissioned a study into the Language of Instruction for Nunavut Schools. Canadian Heritage provided funding for the research. The purpose of the research was to lay the foundation for the design of a system of education that would result in bilingual graduates in Nunavut, consistent with the goal set out in the Bathurst Mandate and with the federal *Nunavut Act*.⁵⁴

In the result, Professor Ian Martin of York University produced *Aajiqatigiingniq*, a discussion paper that presents a 20-year plan for the development of a strong bilingual program for the Nunavut educational system. Dr. Martin observed that the "long-term threat to Inuit language from English is found everywhere, and current school language policies and practices on language are contributing to that threat." He stated that the current model, inherited from the NWT, forces Inuit students to become English speakers if they wish to continue education beyond the Grade 4/5 transition point and thus "replaces the child's first language with an imperfectly learned second language and...too often neither language develops to its full potential."

It is apparent from Professor Martin's report and the literature in the field that virtually all who have studied the subject have concluded that a program of strong bilingual education is called for. The original NWT policy document on bilingual education, published in 1981 after a year long research project into bilingual education around the world, called for 90 percent instruction in Inuktitut in Grades K-3, 70 percent Inuktitut in Grades 4-6, and an even 50-50 percent split in Grades 7-12. Professor Martin cites other early efforts, from the 1982 *Learning Tradition and Change* report, chaired by Tagak Curley to the 1985 document *Bilingual Programming in the Keewatin - An Educational Model* by Katherine Zozula and Simon Ford. Zozula and Ford developed what Professor Martin called "a very well thought out plan which, had it been followed 15 years ago, could have changed the linguistic landscape considerably."⁵⁵

Without solid linguistic skills, few Inuit struggle through to graduation. Employers complain that many students who leave school in grades 10, 11, or 12 to work do not have sufficient literacy skills in either language to be effective employees. In his 2000 report, Professor Martin called the present system

⁵² Francis and Reyhner, *supra* note 47 at p. 70.

⁵³ There are a number of recent works on the topic of endangered languages. See for instance Mark Abley, *Spoken Here: Travels among Threatened Languages* (Toronto: Vintage, 2004); David Crystal, *Language Death* (Cambridge: Cambridge University Press, 2000); Joshua A. Fishman, *Can Threatened Languages be Saved?* (Clevedon: Multilingual Matters, 2001).

⁵⁴ That Act provides, in s. 23. (1)(n): "[The Nunavut] Legislature may make laws in relation to ... the preservation, use and promotion of the Inuktitut language, to the extent that the laws do not diminish the legal status of, or any rights in respect of, the English and French languages[.]"

⁵⁵ Ian Martin, *Aajiqatigiingniq: Language of Instruction Research Paper* (Iqaluit: Nunavut Dep't of Education, 2000) at p. 28.

"fundamentally flawed", one that "does not help students learn either language, English or Inuktitut, at a high level of bilingualism and biliteracy."⁵⁶

Professor Connie Heimbecker of Lakehead University, reviewing Arlene Stairs' research in Nunavik (in Northern Quebec) on the relationship between early Inuktitut fluency and literacy and later English fluency and literacy, noted this same phenomenon:

[Stairs'] study was conducted with grade 3 and 4 children who had experienced Inuktitut language programs in the early grades. Stairs found that children's English writing was related to the fluency of their earlier Inuktitut writing, and their current Inuktitut fluency... Communities with greater grade3-4 Inuktitut writing proficiency, also displayed greater proficiency in English writing and speaking. Communities which had spent less time with Inuktitut and more time with English in the lower grades, displayed a lower level of Inuktitut and only a similar level of English. As Cummins states "These community results show that the positive relationship between English and Inuktitut writing skills is not based only on the intelligence or general language aptitude of the individual students"[.]⁵⁷

Since publishing the Bathurst Mandate in 2000, the Government of Nunavut has established an Inuktitut Living Dictionary. New Inuktitut terminology has been developed for use in government. Language training in Inuktitut is being developed for non-Inuit and for Inuit who are not fluent in their own language. These and other measures lie within its authority and competence. But they will not, in and of themselves, produce the bilingual workforce Nunavut needs. Instead, we need to fundamentally expand the role of Inuktitut in the schools of the territory.

E. The Schools Today

The goal of a bilingual and biliterate society will not be achieved unless the schools of Nunavut produce graduates who are bilingual and biliterate in Inuktitut and in English. This is not happening now.

In fact the present system – an "early exit immersion" model whereby most students are abruptly switched from Inuktitut to English in Grades 4/5 – seems to be producing the opposite. Because it provides students with an insufficient foundation in their first language and too sudden immersion in the second, it is seen as a significant contributing cause of Nunavut's high dropout rates.

The present "early-exit" bilingual model is inherited from the Northwest Territories. In its time, this model was seen as an improvement over the English-assimilationist residential school system which preceded it. However, while the NWT model called for the use of Inuktitut as a language of instruction from K-12, schools could never achieve this goal owing to the lack of Inuit teachers and Inuktitut curriculum and resources. What resulted was the early-exit model that remains in place in Nunavut schools.

The "early-exit" model works like this: With some exceptions, children in Nunavut enter school speaking Inuktitut. In the early grades, Inuit children all over Nunavut are taught in their first language as the language of instruction, i.e., from kindergarten to Grades 3/4/5. Beginning at Grade 4/5, there is a

⁵⁶ *Ibid.* at p. 6.

⁵⁷ Connie Heimbecker, "Bilingual Education for Indigenous Groups in Canada" in Jim Cummins & David Corson (eds) *Bilingual Education*. Volume 5. *Encyclopedia of Language and Education*. (Boston: Kluwer Academic Publishers, 1997).

“transition” from Inuktitut to English as the language of instruction (for students in the Inuinnaqtun communities, English is the only language of instruction from kindergarten to grade 12.). From Grades 4/5, Inuktitut is no longer a language of instruction, but merely a subject like any foreign language.

The result is that just as Inuit children are acquiring the ability to read and write in their own language they are abruptly transitioned into English and required to learn math, social studies and science – and all other subjects in the curriculum – in a second language

Some Nunavut schools teach oral English as a second language in the primary grades, but in many places, the curriculum that Inuit children are introduced to in Grades 4/5, with English as the language of instruction, is their first academic exposure to English. Many of them can converse in English. But they can't write in English. In Grade 4 or 5, they are starting over, well behind. Their comprehension is imperfect; it slips and as it does they fall further behind. By the time they reach Grade 8, Grade 9 and Grade 10, they are failing (not all of them, to be sure, but most of them). This is damaging to their sense of who they are. There has been not only an institutional rejection of their language and culture, but a demonstration of their personal incapacity. The Inuit children are trying to catch up; but they are trying to hit a moving target since, of course, as they advance into the higher grades, the curriculum becomes more complex, more dependent on reading, on books, more dependent on a capacity in English that they don't have.

Instead of adding a second language to a solidly anchored first language that they continue to develop, enriching their language skills by adding the second, the opposite occurs. As they gain more English Inuit children lose more Inuktitut. They lose fluency in their mother tongue; the literacy skills they acquired in the early years atrophy and the space left 'vacant' by the loss of Inuktitut is not simply filled up with English. The children's initial threshold of fluency in Inuktitut should be – but isn't allowed to become - a foundation for the attainment of a second threshold of literacy – in Inuktitut. And they are not compensating for the lost Inuit language with new gains in English. Because they are never allowed to develop their Inuktitut initial fluency and literacy into advanced fluency and literacy through engagement with progressively more demanding subjects, and because the English program largely fails to develop higher-order skills, the children's Inuktitut linguistic strengths are never acknowledged. They are forced pay a high price for the early exit from their home language. They end up without fluency or literacy in either language.⁵⁸

The problem – the gulf between what the current program (inherited from the Northwest Territories) aspired to and what it has been able to deliver – is not likely to improve over time. High attrition rates of Inuit teachers mean that it is questionable whether even the present limited level of bilingual education can be sustained. Resource and curriculum development has continued to be slow owing to ongoing lack of resources. There is a slide, and it is expected to continue, unless something is done to stop it.

F. What Does Effective Bilingual Education Require?

There are essentially two methods of effectively producing bilingual graduates in Nunavut. One model is that which is common in many European countries, in which students are taught in both languages, typically the standard languages of European nation-states, from the first year to the last. The second

⁵⁸ The youth of Nunavut come last in the country on the (English) prose literacy scale, well below the other provinces and territories, according to the *International Adult Literacy and Skills Survey* (IALSS) in 2003. Over 88% of Inuit in Nunavut scored below level 3 in prose literacy compared to about a quarter of the non-Inuit, and noticeably worse than Aboriginal people in the Yukon and the NWT. The impact of low literacy levels in English/French is striking. In Nunavut the percentage of the population at Level 2 is 72%, 20 points higher than in any other jurisdiction in Canada.

model, perhaps more familiar to Canadians, is the immersion model, in which Anglophone or English-dominant students are taught exclusively – or nearly so – in a second language (i.e. French) for a substantial period of their education.

Either model appears to be capable of producing the desired results: students who are not only bilingual but also biliterate – able to read and write at an acceptable level in either language. The difficulty is in the detail: both require a high level of commitment to both languages, together with the resources – skilled teachers, appropriate curriculum materials, and methods for assessment of student progress – in both as well.

In Nunavut these challenges appear to all but foreclose the European "parallel instruction" model. Its adoption would require curriculum materials in Inuktitut to the Grade 12 level, and a cohort of teachers trained to teach a number of high school courses in Inuktitut, neither of which presently exist. If bilingual education is to become a reality in Nunavut within a generation, it must be through the implementation of a system that provides a gradual introduction of English instruction, and a longer retention of Inuktitut, not only as a subject of study, but as a language of instruction.

G. The Proposed System of Bilingual Education

I am convinced that only a robust and effective system of bilingual education can provide the foundation for the fulfillment of the objective of Article 23.

The objective is to ensure that Nunavut students have first and second language skills by the time they complete their schooling. They will be able to maintain their identity and their culture, and at the same time be equipped to enter governmental or private sector employment.

Nothing quite like this has been undertaken in Canada in the past. There is no template for a jurisdiction-wide bilingual education program for all children.

So what would a comprehensive program of bilingual education look like in Nunavut? It certainly could not be implemented immediately. Bilingual education was the policy of the Northwest Territories, as it is now, in a more fully-developed way, the policy of the Government of Nunavut. The NWT did not have the curriculum, the resources or the teachers to fully implement such a policy.

Neither, at present, does Nunavut. The Territory lacks the funding even to maintain the early-exit model adopted from the Northwest Territories, let alone to improve upon it. It has made a start, however, by assigning \$7.5 million from its current education budget specifically to development of a bilingual curriculum and materials to the expansion of teacher education. But it does not have the resources to meet the demands of a fully bilingual education system.

The Bilingual Education Strategy adopted by the Nunavut government in November 2004 provides a glimpse of what needs to be done to achieve comprehensive bilingual education in the territory. The K-12 curriculum and resource development and implementation plans to achieve the strategy have been initiated. But the challenges should be borne in mind.

There remains a severe shortage of Inuktitut-speaking teachers in the education system such that even the kindergarten-to-Grade-3/4/5 Inuktitut programs will be difficult to maintain at present levels. There is also an almost complete absence of advanced teaching materials in Inuktitut. The plan I propose will require hiring and training teachers, and developing an advanced Inuktitut curriculum, at an

unprecedented rate. Even the most optimistic forecasts indicate, however, that bilingual education will develop gradually, year-by-year, school-by-school, over a generation.

Fortunately the most successful model of bilingual education appears to be adaptable to gradual implementation. Francis and Reyhner write:

For Indian children entering school, dominant or monolingual in their Native, indigenous, language, the program model that appears to have produced the most consistently positive results is that described by Krashen and Biber (1988) and Krashen (1991, 1996): the "Gradual exit, variable threshold" approach. ESL students are mainstreamed early in activities where language comprehension is virtually guaranteed because of the complete context support in academically less demanding situations (art, music, and physical education). In school subjects, where context support is high (e.g. primary level mathematics), ESL students receive early immersion in the second language, reserving (in the early grades) the subjects that are more language-dependent and abstract (e.g. reading, language arts, social studies) primarily for the dominant, primary, language.⁵⁹

The model I propose would start with "language nests" (an innovation of the New Zealand Maori) carried out in conjunction with Inuktitut daycare and pre-school programs. It would then carry through the elementary and secondary years, and beyond into adult literacy and basic education programs.

The most critical component of the program will be the development of a strong new generation of Inuit teachers.

Presently, 35 per cent of teachers speak Inuktitut, and their numbers are slipping due to attrition owing to retirement, the stresses of the job (particularly for women with families) and the temptations of other careers in the territory, since Inuit teachers are the largest cohort of qualified Inuit in any field. The program I am recommending will require that many more teachers be trained. In the meantime other measures can be taken. There are, for instance, middle-aged and adult Inuit in every community who speak Inuktitut well. They would be given a year of teacher training in the community and would teach Inuktitut in the schools. At the same time, local trades people, carvers and sculptors would give classes in their specialties. Life on the land would not be forgotten. Survival skills in danger of being lost would be transmitted in the classroom by veteran hunters. All this while more Inuit teachers are formally trained and introduced, year-by-year, into an expanding bilingual curriculum.

There is an opportunity for economies of scale by working with other regions where Inuktitut and its variants are spoken. The Inuit population of Nunavut and Nunavik (in northern Quebec) speak the same language and use the same system of Syllabic writing. Together they constitute 90 percent of Canada's Inuit population. It is obvious that the model of bilingual education adopted in Nunavut might over time find a home there too, eventually perhaps in the Western Arctic and Labrador (it is true that Roman orthography is used in both these latter locales, but it is becoming easier to transcribe from one script to the other).

The aim would be to affirm Inuit identity, to improve Inuit educational achievement, to strengthen the language that is at risk, but at the same time to improve ability in English.

Success would mean that, over time, we will see Inuit high school graduation rates in Nunavut achieving parity with students in the rest of Canada. These graduates would be able to take their share of positions

⁵⁹ *Supra* note 47 at p. 74.

in the Government of Nunavut and in the federal government in Nunavut. They would be equipped to take post-secondary training anywhere in Canada. And they would be ready to enter an expanded private sector in Nunavut.

This is not to say that all Inuit children would be destined for graduation. Some would not. Nor is it to say that Nunavut ought to adopt a wholly academic program. Whether Inuit youth are going to live off the land or go into a trade, there would be a place for them in school. But high school graduates are the key.

In this way – and I believe only in this way – can the objective of Article 23 be achieved.

H. The Choice

I see no alternative to a strong program of bilingual education. I believe that under the direction of the Government of Nunavut, with the support of the federal government, and with the full participation of Inuit families, it can succeed. But nothing less than the full involvement of all partners at all levels of the education system will be sufficient.

There are valuable international precedents. Comprehensive attempts in recent decades to reverse the decline of traditional languages in the Basque and Catalan regions of Spain (which were suppressed under Franco) and in Estonia and other Baltic countries (where under Soviet rule the local languages were used less and less) have met with some success. Describing the program in Catalonia, the Languages Commissioner of Nunavut reported:

There has been measurable and, indeed remarkable success in increasing the status of Catalan within the education system. By 1999, 98.5 percent of teachers in primary schools and 81.2 percent of teachers in secondary schools held a certificate of competence in the Catalan language. This compares with a figure of only 52 percent of pre-school and primary teachers just twenty years earlier. By 2000, 88.9 percent of primary schools and 51.2 percent of secondary schools carried out all their teaching in Catalan (except courses in Spanish and foreign languages), while the remainder carried out most of their teaching in Catalan. By comparison, in 1995-1996, the figures stood at 67.5 percent for primary schools and 25.9 percent for secondary schools.⁶⁰

The secret to these successful recovery programs appears to be based on comprehensive efforts on the demand side (by requiring or encouraging use of the local language in the public service) and on the supply side (by instituting a robust program of bilingual education). Similar programs have been instituted in the Scandinavian countries to reinvigorate the Sami language.

Here I urge adoption of the initiative taken by the Maori of New Zealand in the use of "language nests." By the early 1980s the use of Maori was dying. The Maori people, however, insisted that it had to be revived. And they knew they had to do it themselves. So in schools and community halls the Maori would meet in the evening. Elders would teach their children and their grandchildren their own language; soon the next generation and the generation after that would start to use Maori.

The proliferation of the Maori "language nests" – in 1992 there was only one, by 1998 there were 646 – was nevertheless not on its own enough to re-establish Maori as a language suitable for everyday adult life, and in 1997 the New Zealand government began an intensive effort centred on recruiting and training

⁶⁰ C. Sabourin and J. Bernier, *Government Responses to Language Issues: International Examples* (Iqaluit: Office of the Languages Commissioner of Nunavut, 2001) at p.20.

sufficient numbers of Maori-speaking teachers and developing appropriate materials. The Languages Commissioner of Nunavut reports:

Since then, budgets for producing Maori language teaching and learning materials have been increased substantially (to around \$7 million per year). Various strategies have also been adopted to increase the supply of teachers competent in the Maori language, including scholarships for teacher trainees, face-to-face recruitment campaigns, in-service Maori language training for active teachers, etc.⁶¹

But the best evidence that an Aboriginal language need not be overwhelmed by a European language is Greenland. In that country in the 1960s the colonial power, Denmark, which had asserted sovereignty over Greenland since 1721, promoted the use of Danish from the first grade. But Greenlanders resisted this.

A renaissance of Greenlandic occurred in the 1970s. In 1979 Home Rule came. The Home Rule government made the preservation of Greenlandic a priority. Today students are taught in Greenlandic throughout primary and secondary school. They have an indigenous Greenlandic literature and they have translated many works of world literature into Greenlandic.

The Greenlandic model, however, has its limitations. It is graduating students unable to use Danish or English; in a real sense they are unqualified for work or study outside Greenland, or even equipped to speak in any European language to the world outside Greenland. Greenland academics now urge the adoption of a more fully bilingual model, urging that English be taught from grade 4 and not from grade 7.

So the Inuit must be equipped to use English as well as Inuktitut. Thus the bilingual model I am recommending.

I. The Nunavut Project

This is a project for all of Nunavut, not just teachers and students. Inuktitut must be spoken and strengthened in the homes of Nunavut and in all the communities of Nunavut.

Every community should have a Head Start pre-school type of program (as opposed to day cares) and they, like other daycare and early-childhood programs, should all be conducted in Inuktitut.

In Nunavut the Inuit will have to take the initiative in establishing "language nests". Elders must pass on the language. Parents must participate in the nests and make sure the whole family uses Inuktitut. Communities must support the use of Inuktitut in family language camps and literacy activities throughout the year. And parents must do all they can to keep their children in school. Students who have graduated from Nunavut high schools say that two important factors in enabling them to be successful in school are parental support and high expectations.⁶²

⁶¹ *Ibid.* at p.50. For an overview of the New Zealand efforts see Stephen May, "Maori-medium Education in Aotearoa/New Zealand", in James Tollefson and Amy Tsui (eds.) *Medium of Instruction Policies: Which Agenda? Whose Agenda?* (Mahwah, NJ: Erlbaum Associates, Inc. 2004).

⁶² *Northern Lights: A Research Study of Successful High School Students Across Nunavut* (Christian DaSilva and Cassandra Hallett, 1997).

Nunavut doesn't have enough teachers. They will have to be recruited, and young people will have to volunteer to be teachers, even knowing that more lucrative and possibly less arduous careers are available to them. The invaluable role of Inuit teachers must be recognized and their unique status must be cherished in every community. Men as well as women must come to see teaching as a worthwhile career. All teachers will have to receive the level of support they deserve. The schools must become the hub of community activity, a place where elders and infants are welcome along with students and teachers.

There are impediments. Inuit families do not usually resemble middle-class families in Vancouver or Calgary, accustomed to instilling in their children the virtues of learning through the written word, sending their children off to French immersion. These are families only a generation or two removed from hunting and gathering, who have seen their whole world turned upside down.

My emphasis has been on bilingual education, on the schools and on graduates, because there lies the long-term answer to the problem. But this is not a stand-alone project. It cannot succeed unless the housing and health of the Inuit improve. These things go together.

Housing for Inuit in Nunavut is cramped, to say the least. Students' health is at risk, and sickness and overcrowded homes contribute significantly to Nunavut schools' high absenteeism rates.

One of the biggest surprises you find in Nunavut schools is the presence of amplification systems in the classrooms. It was explained by school officials in Iqaluit that – incredibly – between 30 and 50 percent of Inuit children are believed to suffer from some degree of hearing loss. The reason the figure given is so vague is that there is very little known about the phenomenon. School-wide screening of students has never been instituted.⁶³

It appears that the hearing impairment in Inuit children is mainly caused by Chronic Otitis Media (COM), a chronic infection of the ear which is more prevalent among Inuit than any other race in the world. Hearing loss due to COM can cause delayed language and speech development. Students suffering from COM may have difficulty learning and poor academic achievement.⁶⁴

COM is closely associated with, among other things, overcrowding and exposure to tobacco smoke, two risk factors particularly prevalent in Nunavut communities.⁶⁵

Imagine the odds faced by a student attempting to do homework with 12 or 13 other people in the house (on average, half of them children), perhaps sleeping two, three or four to a room. Nunavut's climate dictates that these tiny homes will be shut tight against the weather for possibly eight months of the year; virtually every home has at least one resident smoker, and usually more; oil heating, particularly from poorly-constructed or maintained systems, may produce carbon monoxide and other pollutants. The fact that even one quarter of Inuit children graduate from high school is, under the circumstances, a testament to the tenacity of those students, their parents, and their communities.

⁶³ An earlier study in Nunavik found that 23 per cent of school-age Inuit children in Kuujuaapik had significant hearing loss in one or both ears. In the United States (by way of comparison), only about two per cent of children under 18 have hearing loss.

⁶⁴ Alan D. Bowd, "Otitis media: its health, social and educational consequences particularly for Canadian Inuit, Métis and First Nations children and adolescents" (Centre of Excellence for Children and Adolescents with Special Needs, Lakehead University, 2002): www.coespecialneeds.ca/PDF/otitisreport.pdf.

⁶⁵ The figures on overcrowding appear earlier in this report. As for smoking prevalence, one Indian Affairs survey revealed that 93% of Inuit women in Kugaaruk smoke: http://www.aicn-inac.gc.ca/ps/nap/air/rep2003/fpm_e.html. The figures usually cited for Inuit smoking rates are around 70-80%.

I wrote in my Interim Report that the issue of social housing did not come within the *Nunavut Land Claims Agreement* and ought to be pursued in direct talks with the federal government at the highest levels. I still believe this to be the correct approach.

This does not, however, mean that housing is insignificant to the issues which concern me as Conciliator. Student, staff and government housing programs will be important parts of many of the initiatives I propose. But nor are the more basic issues of social housing irrelevant. In fact, it is no exaggeration to say that very little that I am proposing regarding bilingual education and a representative public service in Nunavut can succeed without a comprehensive social housing program.

6.7 Questions of Funding

A. The Royal Commission on Bilingualism and Biculturalism

I have said that if the objective of Article 23 is taken seriously, it implies there should be a program of bilingual education and that, in Nunavut, Inuktitut must be the principal language of the workplace and of the delivery of government services.

This country's language policies have been built on the concept of linguistic duality. But when Nunavut entered Confederation, a jurisdiction was created in which neither English nor French is the majority language.

In attempting to negotiate a new deal on language, either under the *Nunavut Land Claims Agreement* or through Heritage Canada, Nunavut has run into a recurring obstacle. Unlike French and English, which are regarded as defining characteristics of Canada, and have been supported by the federal government with comprehensive programs and generous funding, the country's Aboriginal languages, including Inuktitut, are regarded as part of the nation's "heritage." The federal programs and services that support these languages are restricted to the community and the home. Nunavut government departments cannot access this funding for teacher training in Inuktitut or curriculum and resource development.

The Inuit of Nunavut do not want support for Inuktitut to be confined within the limited scope of Aboriginal language policy, but desire a funding partnership based on their unique status as a majority in Nunavut.

The Inuit, though a majority in their own territory, are a minority in the sea of English. In this they resemble the Francophones of Quebec, a majority in their own province, but a minority in North America.

The Government of Canada's own struggle to achieve fair representation for Francophones in its public service provides an illustration of the way in which we can achieve the objectives of Article 23 in Nunavut.

In the late 1960s the Royal Commission on Bilingualism and Biculturalism (the "B&B Commission") pointed out that there had been a failure to recognize the use of French in the federal public service, together with a failure to welcome Francophones into the public service, except in lower-paying categories.

The Commission revealed that in the federal government Francophones did not occupy in the higher echelons the place their numbers warranted; moreover, the Commission pointed out that educational opportunities for the Francophone minorities in the English-speaking provinces were not commensurate

with those provided for the Anglophone minority in Quebec, and that French-Canadians could neither find employment in nor be served adequately in their language by the federal government .

The B & B Commission noted that, "there is an acute shortage of Francophones in higher salaried positions throughout the public service."⁶⁶

The B & B Commission wrote:

The problem of providing equal opportunity is universal. Wherever persons of different languages and cultures work with and for each other, patterns of differential participation in the work process develop. The patterns are based on the realities of group differences in types of training and skills. But they also tend to be based on stereotypes that suggest which people are suitable for what work and what social status. To a certain extent the stereotypes merge with the realities of genuine cultural difference and even reinforce them; in this sense they are self confirming. They can colour the whole environment of an organization. A supervisor who looks at subordinates of different cultural and linguistic backgrounds in terms of stereotypes will decide, on the basis of these stereotypes, whom to encourage and whom to ignore. As a direct result, some will become dynamic and self-confident, and others will become reticent and alienated. The upshot is not simple that people of ability or potential ability are overlooked (though this frequently happens), but that the environment itself partly determines who has ability by giving different labels to different types of people.⁶⁷

The Commission went on:

The cultural ambience of the federal administration is that of a British model adapted to the politics and technology of English-speaking Canada. It is on the whole, an effective adaptation, but its great limitation is its lack of Francophones and, indirectly, French ways of thinking and operating. Everywhere in the Public Service there is great concern for recruiting Francophones, but the desire seems to be for men who will fit easily into the existing structure. The desire for Francophones was rarely complemented by a willingness to provide the intellectual atmosphere and working conditions for the development of their talents. Furthermore, there was apprehension that the Francophones would behave in the federal Public Service as "French Canadians." There was little recognition for the beneficial impact such Francophones might have in broadening departmental orientations. The department of External Affairs, for example, showed a limited interest in French and French-speaking Africa before 1965. The department of Finance has neglected the later developments in econometrics that have come from Francophone economists, both in France and in Quebec, and its libraries lack the leading French-language economic journals. The greatest drawback Francophone public servants must face is the cultural milieu of the federal administration: it is so overwhelmingly "English" that it is difficult for Francophones to identify with its problems or with the style of life, honour, and prestige of its officers. The result is that some Francophones either give up, drained of ambition, or simply become narrowly ambitious. Neither orientation is conducive to a successful or useful career. The Public Service must recognize the necessity of creating work milieu in which the normal language will be

⁶⁶ Hugh R. Innis, *Bilingualism & Biculturalism: An Abridged Version of the Royal Commission Report* (Toronto: McClelland & Stewart, 1972) at , p. 101.

⁶⁷ *Ibid.* at p. 100.

French, where Francophones will constitute a majority, and where their experiences will incline them to stay in the Public Service. [emphasis added]⁶⁸

There is a striking similarity between the situation described by the B & B Commission and the situation in Nunavut today. The programs we developed in order to strengthen the French language in Canada can be useful models in Nunavut.

Beginning with the *Official Languages Act* in 1969 the Government of Canada pursued a comprehensive strategy aimed at increasing Francophone representation in the federal public service and supporting education and community development initiatives for Francophone minorities across Canada.

The *Official Languages Act* itself included strong measures to support French as a working language of the public service, a decisive step toward achieving a representative workforce.

The adoption of the *Charter of Rights*, section 23, in 1982 brought with it the establishment of minority language education rights for French (and English) throughout Canada "where numbers warrant".

All of these measures were intended, as Prime Minister Pearson put it, to ensure that French-speaking Canadians are "at home" in Canada. We must do as much to ensure the Inuit are "at home" in Nunavut.

The *Official Languages Act* is an expression of policy – a policy favouring English and French. But nothing in the Constitution or the *Official Languages Act* prevents Canada, as a matter of policy, from supporting a territorial initiative favouring Inuktitut.

As a result of its dual-language policy, the federal government subsidizes the teaching of French as a second language in schools in the provinces and the territories.

In Nunavut the fruits of this policy can today be observed. There are approximately 400 Francophones in the territory, concentrated in the capital, Iqaluit. With federal funding the local Francophone community has built a \$5 million dollar school, where French is the language of instruction. Class sizes average six students. All of this was made possible under section 23 of the *Charter of Rights*. In addition, the federal government provides \$4 million a year to promote the use of French in Nunavut.

The Inuit receive \$1 million a year to promote the use of their language.

This is not to make invidious comparisons. But it shows what can be done to strengthen a minority language.

The French and the English are the founding peoples of Canada. They are the charter peoples of Confederation. Theirs are our two official languages.⁶⁹

I wish it to be understood that the program I am recommending of federal support for bilingual education in Nunavut would in no way challenge or undermine the paramount place of English and French, as constitutionally protected languages, in Canada or in Nunavut. They would remain the languages in which

⁶⁸ *Ibid.* at p. 101-102.

⁶⁹ So pervasive is this policy that, for instance, Article 2.8.1 of the *Nunavut Land Claims Agreement* provides: There shall be Inuktitut, English and French versions of the Agreement. The English and French versions shall be the authoritative versions.

federal government services in Nunavut would be delivered. The right enjoyed by the Francophone minority to have schools, "where numbers warrant," under s.23 of the *Charter* would remain.

Today Francophones hold approximately one-third of positions in Canada's public service. The success of official bilingualism in Canada indicates that it is possible that extraordinary measures can be taken in Nunavut to make Inuktitut a language of the workplace and a language of the delivery of government services to the Inuit.

The B & B Commission cast its report in terms of "language rights," but conceded there was no constitutional mandate for its recommendations. At best, they said, section 133 of the *Constitution Act, 1867*, "represents embryonic concepts of equality".⁷⁰

The recommendations of the B & B Commission were made even though there was no constitutional instrument providing that the federal public service should be representative of the Canadian population, no provision in the Constitution similar to Article 23 of the *Nunavut Land Claims Agreement*. And certainly no provision in the Constitution which implied as a corollary mandating French as a language of the workplace and of service to the public.⁷¹

But, it will be said, French is a world language, spoken by millions around the world and which has produced a body of great literature. It is a traditional language of diplomacy, a language whose purity is guarded by the Académie française. What reason is there to believe that the same measures that we took with respect to French could succeed in the case of an Aboriginal language?

To start with, it was not at all certain that French would thrive in Canada. In 1763 the population of New France, coming under British rule, numbered only 60,000 (no more than twice the population of Nunavut today). Under the *Quebec Act* of 1774 their laws and their religion were protected.

Nevertheless, in 1839 Lord Durham in his famous *Report on the Affairs of British North America* did not think that the French language could survive in North America. Where was their literature, he asked? Where were their books? He recommended the assimilation of the French Canadians in Quebec. Of course, the idea was rejected by the old Province of Canada.⁷²

Well, it is said, there are only 25,000 Inuit in Nunavut. But they are growing in numbers. In fact, since 1980 the Inuit population of Nunavut has almost doubled.

The recognition of the place of the French language in the federal public service and in schools across Canada is now unassailable. In the same way the recognition of Inuktitut in the public service and its place in the schools in Nunavut must bind the Inuit closer to Canada.

⁷⁰ Innis, *supra* note 66 p. 12.

⁷¹ It should be borne in mind that what is proposed for Nunavut is not a template for emulation elsewhere in Canadian Aboriginal communities. No other Aboriginal language can claim that its speakers constitute a majority in any jurisdiction in Canada; there should be no concern that the proposals made here would open the door to a host of minority languages claiming similar status. Nunavut is unique.

⁷² An even more startling proposal for assimilation of the Inuit of Nunavut was recently made by Professor Frances Widdowson of the University of New Brunswick. Professor Widdowson recommends "the depopulation of Nunavut" so that the Inuit might "become actual participants in the development of humanity": Frances Widdowson, "The Political Economy of Nunavut: Internal Colony or Rentier Territory?" (Paper prepared for the Annual Meeting of the Canadian Political Science Association, University of Western Ontario, London, Ontario, June 2-4, 2005).

B. Federal Funding

Neither in 1993 or in 1999 was there adequate attention given to estimating, and then meeting, the real costs that would be required for the development of a bilingual education system to address the objective of Article 23. They are only now beginning to be appreciated.

Nevertheless, the Parties have always understood the centrality of the objective of Article 23, even if they did not understand the scope and scale of the efforts needed to fulfill it.

If we are to achieve the goal of Article 23, a goal to which Canada has committed itself, can it be left to the Government of Nunavut? I think not. Nunavut does not, under Territorial Formula Financing, have the resources.

If there ought to be a further commitment by Canada, when does it arise? I think now is the time. The Government of Nunavut is up and running. The initial representation of Inuit in the public service has levelled off. It is apparent that the specific measures contemplated by the Parties when the objective of Article 23 was agreed are not going to be sufficient.

The Government of Nunavut has since 2002 been seeking additional federal funding for a program of bilingual education.

I have set out in Part VI.D of this report the costs of the specific initiatives that I am recommending in the near term. They come to approximately \$20 million per year. This figure does not include the cost of the program of bilingual education that I recommend for the long term.

These recommendations will require substantial investment immediately, particularly for teacher training and curriculum development, and the commitment must be sustained over a generation in order to bear fruit. The Government of Nunavut has come up with some cost estimates, but given that the program must be introduced in stages over years, it is not easy to determine the cost over the whole period of time.

But these costs must be put in perspective. In order to solidify our position in the Arctic, Canada is contemplating the purchase of several heavy naval icebreakers, the construction of a deep-water port at Iqaluit, and an enhanced military presence. These are matters for the Government of Canada to determine. I am simply urging the vital importance of what is truly incontrovertible evidence of our Northern commitment: a successful, thriving population with a well-functioning government, fully integrated into Canada but with a unique and historic Arctic character.

There can be no doubt that what I propose will be costly. Equally there can be no doubt that Canada must provide the lion's share of the funding.

I have discussed with the Parties the question of how such an arrangement should be structured. I think that the Governments of Canada and Nunavut should develop bilateral agreements for the design and implementation of this program. In my view no other approach will work. The Government of Nunavut is in the business of educating Inuit; it has the expertise, it runs the facilities; it trains the teachers; it is involved in the health, housing and general welfare of the students. It has developed plans for bilingual education: the design of a Nunavut-specific curriculum, the training of a new and greatly expanded cohort of Inuit teachers to deliver it, and the involvement of the whole community. It is also accountable to the citizens of Nunavut for the decisions it makes and the priorities it sets.

It is therefore, I think, through the Government of Nunavut that the program should be delivered.

In the Clyde River Protocol of 2002 the Government of Nunavut and NTI agreed that "NTI occupies a special place in the affairs of Nunavut with respect to the rights and benefits of Inuit under the Nunavut Agreement" and that "NTI has a mandate to protect and promote the interest of the Inuit as an Aboriginal people."

There can be no doubt that NTI, which in its submissions to me as Conciliator, has time and again expressed its belief in the need for bilingual education as the only means of meeting the objective of Article 23, is uniquely placed to support the Government of Nunavut in its determination to bring such a program to fruition.

I had thought that it might be possible to make Nunavut accountable to Ottawa, to require a financial audit and a performance audit by the federal government. But this would be inconsistent with the grant of authority that has been given to Nunavut to run its own affairs, which quite specifically provides Nunavut with jurisdiction over education. The Government of Nunavut is accountable to its own Legislative Assembly for the money it spends, and the Legislative Assembly is of course accountable to the citizens of the territory.

The federal funding will have to be over and above what Nunavut receives through Territorial Formula Financing. It is funding that, like the federal funds that go to the provinces and territories to fund English and French, will have to be targeted funding, not to be devoted to any other territorial priorities.

The Government of Nunavut is already spending \$7.5 million in curriculum development and teacher education, specifically targeted to these objectives. The balance should come from Canada. Or it may be that a ratio corresponding to that which currently obtains, in the annual budget of Nunavut, between Canada's subvention and Nunavut's own revenue, would be appropriate. These are, of course, matters to be worked out between Canada and Nunavut.

Canada and the Government of Nunavut would develop a joint strategic plan setting out objectives and time frames.

I think there should be an independent panel to review the progress of the program. This should include experts in the field, ideally a blend of academics, teaching professionals and members of the community in Nunavut. The panel would monitor progress and results.

This will be a long-term project. Results will not be apparent at once. We have seen, however, in the case of French, that over time (in the case of French, over three decades) with federal support a minority language program can succeed.

C. The Cost of Failure

(1) Dollar Costs

The objective of Article 23 is to ensure that qualified Inuit occupy 85 percent of the positions in the public service in Nunavut. As long as there is a shortfall, there is continuing cost to the Inuit.

In February, 2003, PricewaterhouseCoopers provided an analysis of these costs in a study for NTI and the Government of Nunavut.⁷³

After comparing the present income of the Inuit with what they would be earning if they filled 85 percent of the positions in government in Nunavut, PricewaterhouseCoopers calculated the incremental lost income to the Inuit as \$123 million annually.⁷⁴

Of course, the employed Inuit would have to pay income tax (as they always have) on these additional earnings, and Inuit on social assistance moving to employment would give up their social assistance. If you take these factors into account you get, according to PricewaterhouseCoopers, a *net* figure of \$72 million in lost Inuit salary and wages for the year 2003 attributable to the failure to achieve the goal of Article 23.

Of course, failure to realize full Inuit employment also carries with it costs to the Governments of Nunavut and Canada.

PricewaterhouseCoopers, using data from the Saratoga Institute, went on in its 2003 report to consider the high cost of recruiting, hiring and training new employees, incorporating data indicating recruitment in the South was both more expensive⁷⁵ and more frequent⁷⁶ than when Inuit were hired. They factored in estimated savings in social assistance payments and the effect of tax revenue flowing back to government.

PricewaterhouseCoopers's conclusion was that the net dollar cost to all the Parties amounts to some \$137 million per year as of 2003.

Such calculations are inherently elastic. But the report is nevertheless an indication of the scale of the costs to the Inuit of doing nothing, or not enough, towards the fulfillment of Article 23's objectives.

Furthermore, there is reason to believe that *actual* costs to all Parties must be higher still when indirect costs are taken into consideration. PricewaterhouseCoopers writes:

The indirect costs associated with not successfully implementing Article 23 are likely to extend well beyond just the direct costs described above. This is due the fact that many of the barriers that limit employment of the Inuit in the Government sector – such as education, housing, day care – also limit employment of the Inuit in the non-Government sector. Moreover, increasing Inuit employment and income is likely to have significant ripple-type effects throughout the whole economy... these costs are real and likely to be sizable in nature.⁷⁷

⁷³ *The Cost of Not Successfully Implementing Article 23: Representative Employment for Inuit within the Government* (PricewaterhouseCoopers, February 17, 2003).

⁷⁴ This is not to say that the wages and salaries going to non-Inuit Canadians from the South, who are in Nunavut to do the jobs for which Inuit are not qualified, are somehow lost to Nunavut. Of course they are not. Much of the wages and salaries paid to non-Inuit are spent in Nunavut. Much of the money circulates there. But that was not the objective of Article 23.

⁷⁵ In the case of a non-Inuit public employee, there are likely to be additional costs (not included by Saratoga), such as the cost of transportation to Nunavut and returning to the South.

⁷⁶ Since the average Inuk stays on the job 6.4 years; the average non-Inuit 3.8 years, the \$80,000 expenditure will be incurred oftener in the case of non-Inuit.

⁷⁷ PWC report, *supra* note 73 at p. 49

(2) *Social Costs*

And then of course there are the social costs. It seems difficult to contest the proposition that a population that is unemployed and marginalized is likely to have a higher rate of social pathology than one that is fully employed, with consequent costs (for treatment of alcohol and drug abuse, health costs, the costs of high incarceration rates, family violence, and suicide).

No one expected that the establishment of Nunavut would eradicate social problems among the Inuit. Indeed, the division of the former Northwest Territories into a wealthier, better-developed Western Arctic (the Northwest Territories today) and the predominantly-Inuit, underdeveloped Eastern Arctic (Nunavut) was expected to spotlight many problems that had long persisted. A former Chief Medical Officer of the Northwest Territories said before Nunavut was established:

Division will consolidate not only the Inuit, but also their problems, [statistics on which] now are diluted by the presence of a substantial NWT non-aboriginal population, and to a lesser extent by the non-Inuit aboriginal population, whose health status is better than that of Inuit. Thus, the health status profile for Nunavut may come as a shock to many who may have become inured even to the depressing aspects of the overall NWT profile.⁷⁸

Indeed the statistics for the Territory are bracing. Hicks and White, writing in 2002, synopsise:

When mortality data for Nunavut was first published by Statistics Canada, many Nunavummiut were shocked to learn that the life expectancy at birth for a baby born in Nunavut in 1996 was almost ten years lower than for Canada as a whole... Nunavut's infant mortality rates have been halved over the last fifteen years, but are still more than three times the national rate. Mortality due to lung cancer among women in Nunavut is almost five times the national rate, and women in Nunavut were about seven times more likely to die of respiratory disease than Canadian women as a whole.

To the outside observer it must seem like there is no end to the depressing, statistics: over two-thirds of Nunavut residents 12 years of age and older smoke (compared to less than 30 per cent nationally), almost three-quarters of all Nunavut mothers smoke during their pregnancies, Nunavut's rate of tuberculosis during the 1990s was more than eight times the national average, sexually transmitted disease rates are 15 to 20 times the national rate, and Nunavut's suicide rate is six times the national average.

This latter statistic is perhaps that most disturbing. For the period 1986 to 1996, Nunavut's crude suicide rate was 77.9 per 100,000 – and rising – compared to a national rate of 13.2 per 100,000.

The suicide rate was far higher among those between 15 to 29 years of age, much higher among males than among females, and higher in the Baffin region than in the Kitikmeot or Kivalliq regions.⁷⁹

Hicks & White went on:

⁷⁸ David Kinloch, "Health and health services in the NWT: A review of policies and programs," unpublished report dated March 21, 1996, p 72, quoted in Hicks & White at p. 89.

⁷⁹ Hicks & White, *supra* note 25 at pp. 89-90.

[S]uicide rates in the eastern and central Arctic were also rising sharply before the creation of Nunavut in 1999. The suicide rate for the period 1992 to 1996 was almost double what it had been a decade before. And during the first 16 months of Nunavut's existence (April 1999 thru July 2000), at least 34 Nunavummiut took their own lives. Of the 21 suicides which occurred in the Baffin region, all but two were Inuit males. 12 of those 21 were from Iqaluit.⁸⁰

Hicks & White summarize the danger (and by implication the costs) of leaving these problems unchecked:

[T]he territory's new government, Inuit organizations and Institutions of Public Government face enormous challenges: a young work force with high levels of unemployment and dependence on social assistance, low (but rising) educational levels, high costs for goods and public services, inadequate public housing, poor health condition, and escalating rates of substance abuse, violence and incarceration.⁸¹

No one has attempted to put a dollar figure on the costs or consequences of young people growing up uneducated or undereducated, and with little hope for their future. Two things do seem to be clear, though: first, the costs are staggering both in human terms as well as in dollars and cents; and second, the costs are avoidable. We can pay now, or we can pay a lot more later.

⁸⁰ *Ibid.* at pp. 90-91.

⁸¹ *Ibid.* at p. 92.

6.8 The Nunavut Project

A. The Challenge

(1) The Commitment Required

Today there are about 100 Inuit high school graduates every year. The achievement of Article 23's objective of representative Inuit employment (i.e. 85 percent) would require the addition of something like 1500 Inuit to the workforce, over and above the number required to maintain current levels in the face of retirements and other departures from the public service.

Assuming that all unfilled positions in government require at least a high school education (I think that this is a reasonable assumption given that the most under-representative areas of Inuit employment are those with the highest educational requirements), it would be foolish to think that the present education system could support Article 23's attainment. Even if fully half of each graduating class went into the public service, the fulfillment of the objective of Article 23 would be over 30 years away, and this calculation does not account for attrition in the public service, which could double or even triple in this time period. Moreover, it would not leave any graduates available to enter the private sector.

The number of qualified Inuit is limited. Inuit high school graduates cannot all be expected to enter the public service in order to swell the numbers. Today those with high school and university qualifications are in demand by all three levels of government in Nunavut, and by the private sector. The teachers graduated by the Nunavut Teacher Education Program illustrate the point: many of them are recruited by the Government of Nunavut, by businesses and other organizations.

Fulfilling the objectives of Article 23 means more than developing Inuit hiring initiatives in the public service. Such programs have been in place since before Nunavut was established. They have met with mixed success, but at any rate appear now to have largely exhausted the supply of qualified Inuit.

As these problems are apparent, so is the solution: we must increase the *supply* of qualified Inuit, and shift the focus from demand. With only one in four Inuit children graduating from high school, the inadequacy of supply is plain.

And so are the challenges. Nunavut students need a Nunavut-specific curriculum, and Nunavut needs to develop the supporting materials. We must nurture a legion of Inuit teachers capable of delivering a truly bilingual curriculum, from Kindergarten to Grade 12. Trades, vocational and cultural training programs must be developed; members of the local communities must become engaged in the delivery of these and other programs. Pre-school programs must be enhanced. Better adult literacy and adult education are also required.

If the number of qualified Inuit is expanded there will be a "spillover" effect, that is, Inuit graduates who qualify for government positions will at the same time qualify for positions in the private sector and the non-profit sector.

Joe Adla Kunuk of NTI made this point when he wrote in February, 2004:

While initiatives must be directed to the public sector generally and not simply the Government of Nunavut, it should be recognized that education and training will benefit all employers.

This is a profound task, well beyond the resources of the Government of Nunavut. It will require a commitment by Canada. I think Canadians will embrace Nunavut, as they did in the 1990s, as a worthy national project which must not be abandoned.

The view is widely held that we are at a watershed moment for Nunavut.

If we simply go on as we are, we will be facing an irretrievable loss of Inuit language, culture and tradition. We would run a very real risk of marginalizing a whole people, making them strangers in their own land.

Can it be done? Can Nunavut train enough teachers in time? Can it develop the curriculum materials? Can parents keep their children in school? Can Inuktitut be taught to the children by local elders and middle-aged men and women? Can traditional skills be taught in the schools? Can there be Inuit graduates equipped to fill their fair share of responsible positions in the public service, and equipped to enter the private sector in a rapidly changing Arctic?

I think the Inuit can do it, and, with our help, they will. These, after all, are the people who mastered the art of survival in these cold and distant places, on whose skills we Southerners have relied for four hundred years. They have evolved strength, determination and patience over centuries on the land, water, and ice. They put together the country's largest land claim. They are building a new Territory.

They believe – they are certain – that education is the key to the future of Nunavut.

For me, the spirit of Nunavut – and its future – is exemplified by the students and graduates of the Nunavut Sivivuksavut program. There, in an unremarkable building in Ottawa's Byward Market district, small groups of Inuit students gather to study their history, their culture, and plan their futures. They take courses at local universities, they act as ambassadors for the Inuit of Nunavut. The graduates of NS have for 20 years been going on to become leaders in business, government, education, and the arts. On a shoestring budget, thousands of kilometers from their home communities, they support one another, and they show us what can be done.

(2) *Eyes on the Prize*

At present, there is a great deal of focus – at the negotiating table, in written submissions, in government at all levels and in Nunavut's political discourse – on “the numbers”, i.e. the percentage of Inuit employed in the various government departments. This is of course natural. The fact that we seem to be stalled in our quest for the fulfillment of Article 23's objectives is established through an examination of Inuit workforce statistics; ultimately, our success too will be measured, in large part, by counting heads. Article 23 is, as NTI rightly points out, at many important levels “a numbers game”.

My concern is that the program I am recommending to fulfill the objectives of Article 23 may, in the short term, mean that the percentage of Inuit employees in the public service will not immediately improve, and might in fact *decrease*.

Let me give an example of how this might occur: A significant expansion of the teacher training program may well, in the short term, require more instructors imported from the South to teach the new teacher candidates. To be sure, in a few years we can expect to have the first of a new cohort of well-trained Inuit teachers. Some years after that cohort begins teaching, we can expect their influence to be felt in increased numbers of Inuit graduates, who will be equipped to go on to further training and take their

place in the currently Inuit-poor areas of the public service, but this result could be perhaps a decade away. My point is that the long-term objective must be our focus, even if, in the near term, more rather than less reliance is placed on Southern workers in certain areas.

Failure to address the Inuit teacher shortage and the insufficiency of curriculum materials will quickly render bilingual education, even in its present limited scope, irretrievable. Although exact figures are difficult to come by, it does seem clear that, while the need for more Inuit teachers is even now acute, their numbers are expected to continue to slide at present replacement levels.⁸² If this process is left unchecked, it will not be reversible. A generation of Inuit children, perhaps more, will be deprived of an effective education. The sheer cost of this collapse in human lives wasted would be intolerable.

The present crisis opens on a window of opportunity. I am urging that we exploit the window before it closes. All must keep their eyes on the prize – the development of bilingual education and a public service that will truly reflect Inuit culture.

(3) *The Numbers Game*

Today, the shortage of qualified Inuit, coupled with the existence of the 85 percent target, has resulted in an unfortunate "numbers game" in hiring for the public service in Nunavut.

Article 23 is at one level a numbers game – its objective is 85 percent Inuit employment. But we should not lose sight of the fact that the numbers are also a means to other ends, not simply an end in themselves. Article 23 was not designed simply as a device for providing well-paying jobs to Inuit residents of Nunavut. Certainly that was one objective, and given the importance of government employment in the territory, it is an important one. But Article 23 also was designed to ensure that Inuit participated meaningfully in the governance of their Territory, and that government services would be provided in a manner that Inuit employees, combining training and knowledge in professional fields and government with their command of the Inuit language and culture, could uniquely achieve. In other words, it was designed to improve the quality of government in Nunavut for the benefit of the Inuit.

Without a comprehensive strategy for addressing the lack of an adequate supply of educated Inuit, there has been a tendency for government in Nunavut to focus instead on the demand side of the equation. As a result, there is an oft-noted phenomenon of "poaching" to enable one department to augment its Inuit numbers, but at the expense of another department. The problem is exacerbated where there is insufficient support for these employees once they are hired, either because of a lack of resources, or because the required resources are devoted instead to the drive for immediate gratification of Inuit hiring numbers. Program delivery may suffer.

So the drive to achieve 'the numbers' – to hire Inuit employees – may in some cases undermine the other objectives of Article 23: the meaningful participation of Inuit in government, and the delivery of government services in Inuktitut in the communities.

I have discussed the problem of "poaching" with respect to the graduates of teacher education programs in Nunavut, but it is something that has to be considered in a broader context too. The program I propose

⁸² This is largely a matter of resources. Many Inuit teachers now reaching retirement age received only two years of postsecondary education; present teacher-training candidates will have four or five years' training. Many of this same generation of teachers own their own houses, and when they retire their replacements will themselves need to find housing. Moreover, increasing the NTEP program to graduate more Inuit students will probably require significant investment in either student support (childcare, housing etc.) or in-community course delivery. My point is that replacing Inuit teachers is at present a very expensive business.

will require that many new positions be created, that resources be dedicated, with some urgency. It might not be possible to fill all these positions with qualified Inuit in the short or even medium terms. Instead, I would encourage the parties to take the focus off short-term achievement of Inuit employment numbers where doing so will advance Article 23's objective of fuller Inuit employment in the long term.

Of course, no one with whom I have spoken wants to remove the emphasis from Article 23 hiring programs altogether. My point is that for now the only sustainable path is to place a greater emphasis on increasing the supply of qualified Inuit.

B. The Plan

(1) Introduction

I have received the benefit of a great deal of advice from educators, as well as from professionals and academics, students and parents, and many others.

My objective here is to identify what I believe to be the priorities of any effective plan to fulfill the promise of Article 23. It would be a mistake for me to set out, in advance, proposals in great detail. Not only because it would extend beyond my mandate, but also because if I have learned one thing about Nunavut it is that you can never know enough about the territory and its people. Nunavut is a singular place, where government programs effective in the South have floundered like Franklin's ships. The programs that have succeeded best are those that have evolved; things must be tried, some may fail, and then we must be prepared to try again, making use of our experience. The programs must adapt continually to this unique social, linguistic and geographic environment.

In this spirit, the details must be worked out between Canada and the Government of Nunavut: the communities themselves will no doubt play an important part in the design and implementation of the programs.

(2) The Core of the Program: Bilingual Education K-12

Professor Martin in his 2000 report set out the general framework for the use of Inuktitut and English in instruction. He urged that, under the new model, Inuktitut would be the main language of instruction in elementary school and an equal language of instruction in high school. His "strong model" of bilingual education contained four elements:

1. An Inuktitut head start type pre-school program,
2. Grades K-3: 100 percent in Inuktitut with the option of one English as a Second Language (ESL) period per day,
3. Grades 4-8: Inuktitut used for the main academic subjects and English used for two periods per day with a focus on developing conversational skills,
4. Grades 9-12: both Inuktitut and English could be used for academic subjects but students would take a minimum of one-language arts period and one other subject in each language.

Professor Martin proposed variations of this program with respect to the Inuinnaqtun-speaking communities, where he found that profound language loss has already occurred, and a further set of

options for the "mixed population" centres of Iqaluit and, possibly, Rankin inlet, where non-Inuit make up a significant minority of the population and perhaps no more than half the Inuit residents speak Inuktitut at home.

The new program must be built on the foundation that now exists. Inuktitut should continue to be the language of instruction from kindergarten through Grade 3/4. It may be valuable, even at this early stage, to introduce English in the earlier years, but whether and to what extent English should be introduced in the primary years as a language of instruction or as a subject of study is something that will have to be the subject of further consultation and research by the Department of Education.

Inuit students would acquire literacy in Inuktitut, but in Grade 4/5 English would be introduced as a language of instruction. This will not, however, lead to the early-exit immersion now current. Instead, during and after the transition Inuktitut will continue to be a language of instruction, alongside English. The exact distribution of subjects and languages may vary. Perhaps Inuit history, traditions, and culture, the geography of Nunavut, the life of the Inuit in early times, contact with European explorers, the fur trade, the long struggle for their land claim, the creation of Nunavut, and their present-day achievements in art, sculpture and film, should all be taught in Inuktitut. Crossover subjects such as social studies could be taught in Inuktitut. It may be that English will be the best choice for teaching science and mathematics.

Within the bilingual program models adopted by the government, which ensure there are at least two periods of Inuktitut through all grades from K-12, each community will need a system adapted to its own situation. In Kugluktuk and Cambridge Bay, where Inuinnaqtun is endangered, the choice may well be immersion in the Inuit language. All surveys show that the Inuit of Nunavut want to preserve their language. This is especially so in Kugluktuk and Cambridge Bay. In Iqaluit, where the largest non Inuktitut-speaking population is found, Inuit children are surrounded by English outside the home, but at Inukshuk High School in Iqaluit the students are unanimous in wanting more Inuktitut introduced in the classroom.

It will be clear that the program I am recommending is modelled on Professor Martin's proposals, which have to a great extent been adopted by Nunavut's Department of Education as the basis for their 2004 policy. These proposals are based on the consensus of experts in the field. Moreover, they are tempered by the practical reality of Nunavut. As I have said, I do not think it is useful for me to set out in great detail the program that should be followed, course-by-course. These questions are for the experts, the educators, the parents and the communities.

(3) The Pillars of Bilingual Education

(a) Inuit Teachers

(i) Recruitment and Training

The Nunavut Teachers' Education Program (NTEP), which is charged with graduating the next generation of Inuit teachers, faces considerable challenges.

Professor Martin wrote in 2000:

The special difficulty in Nunavut with implementing community-appropriate strong bilingual models lies in its underdeveloped infrastructure. While there have been significant initiatives in curriculum development and learning materials, much remains to be done so that Inuktitut could be the main [language of instruction] to the end of elementary school and an equal [language of instruction] in high school.

He went on to say:

But the most critical constraint of all is the development of a strong new generation of Inuit teachers.

In NTEP teachers presently take a three year course, after which they are qualified to teach grades 1 to 9 for a probationary period of 5 years. In that time they must complete one more year and earn their B.Ed., after which time they are qualified to teach in Nunavut and can teach in most jurisdictions in Canada if they meet additional province-specific requirements. Most, however, presently do four years straight through to earn their B.Ed. Prior to 1978 the program was delivered in Fort Smith. In 1978 it was moved to Iqaluit as the Eastern Arctic Teacher Education Program (EATEP). In 1981 the program became affiliated with McGill University; the program now uses McGill's course outlines and the students graduate with a McGill certificate or degree. Prior to 1981 EATEP was a two-year certificate program; it was then changed to a three year program. In 1986-87 the B.Ed. was introduced, making the full program four years in length. In 2004 a "foundation" year was introduced, mandatory for incoming NTEP students who do not pass the college entrance exams (historically, many of the teachers qualified by EATEP/NTEP had been long term classroom assistants with less than a grade 12 education prior to their teacher training). The purpose of the foundation year is to provide additional preparation for students so that they are better equipped for university-level learning.

The EATEP/NTEP program is said to have graduated 200 Inuit teachers to this date, currently at the rate of 8-12 per year.

This is not nearly enough. A fully bilingual education system would require the recruitment of hundreds more Inuktitut-speaking teachers (and the training of a certain number of non-Inuktitut-speaking teachers in Inuktitut), even without factoring in the present rate of attrition.

The goal of a strong bilingual model as proposed by Professor Martin will require a substantial increase in the number of Inuit teachers. This will not be easy. It is presently very difficult for the NTEP program to recruit candidates for teacher education. A solution to this problem may well require concerted delivery of education programs within the communities, and a much more robust level of support (childcare, housing, etc.) for the teacher education students.

(ii) Retention

Of Nunavut's approximately 600 teachers, something like 230 (about 36 percent) are Inuit, and these are almost all in the elementary schools. The number of Inuit teachers in Nunavut is beginning to decline; the education system is not producing graduates at a sufficient rate to replace retirees, particularly because the teachers' education and experience is recognized as valuable in other lines of work. Until the establishment of Nunavut, Inuit teacher retention rates were among the highest in Canada.⁸³ They have since sharply declined.

⁸³ *The NWT Teacher Education Strategy: Costs of Success – Status of the Goal* (Barbara Guy, 1997).

Inuit teachers face considerable challenges in their work. Virtually all of them are women, often the sole breadwinners for a family of as many as four children. They may be single mothers. They may be unable to stay at school for meetings or lesson preparation due to their domestic obligations. Absences are common if the teachers' own children become sick or have other demands. There is a good deal of attrition in the ranks of Inuit teachers in the first 1-3 year period of teaching. The nature of the job requires that more support on the job training be provided to improve quality of education and teacher retention rates in these crucial first years of teaching. It was often suggested by officials that "something drastic has to be done" to avert a teacher shortage crisis, particularly an Inuit teacher shortage, in the next few years.

Some complain that many graduates of the NTEP move into positions elsewhere in government. Ooloota Maatiusi, Principal of the Nunavut Teacher Education Program at the Arctic College, when asked how to improve teacher retention, said "Get the Government of Nunavut to stop hiring our graduates." While exact figures are not available, it is clear that many qualified Inuit teachers in Nunavut are working for the Government in non-teaching roles. These are individual life choices. But they illustrate how badly Nunavut is in need of Inuit who have some qualifications.

On my visit to Nunavik in northern Quebec I learned that the Kativik Regional School Board's teacher education program has incorporated a one-year 'job shadowing' practicum *at the beginning* of a teacher's education. That is, prospective teachers are taken into the classroom with an experienced teacher for a full school year. It is a time for teaching students to decide whether teaching is indeed for them, and for the prospective student-teacher to be evaluated, so that the resources necessary to train a teacher can be focused on the most dedicated candidates with the highest prospect of long-term success. The Kativik School Board officials in Nunavik point to a high retention rate for their teachers. The extent to which this high retention rate can be attributed to the introductory practicum is perhaps open to question, but the idea is worthy of further study.

(b) The Development of a Nunavut-Specific Curriculum and Materials

Bilingual education is not possible without bilingual materials. Moreover, students and educators in Nunavut are faced with a further difficulty of *context* – curriculum materials developed in the South are, quite apart from the question of language, often lacking in relevance to students in the territory.

The Government of Nunavut has committed itself to the development of a completely 'made in Nunavut' curriculum by the year 2009. This is a very large undertaking which will require a great deal of resources.

Here too, there is an opportunity for cooperation with efforts in Nunavik. The Inuit in both jurisdictions use Syllabics. There are 11,000 Inuit in Nunavik, with close linguistic affinity with the 25,000 in Nunavut. The economical production of materials can be considerably assisted by coordinating the efforts of the two jurisdictions, and the sooner and more fully this is undertaken the better off will be the Inuit in both places.

(c) The Evolution of Inuktitut Language

Inuktitut is the vessel in which the traditional knowledge of the Inuit, and their culture, have been preserved through the transition from life on the land to modern community life. It has been the language of hunters, storytellers, navigators, shamans, parents and leaders. However, in order for the Inuit to confirm their place as actors on the national and international stage, the language of the Inuit must now

adapt, and become also the language of miners and mariners, lawyers, engineers, educators, linguists, authors and film-makers.

The Government of Nunavut established programs to preserve, update and, to the extent that it is possible, standardize Inuktitut throughout the Territory while fully respecting the community dialects, and is working to craft a pair of important pieces of legislation: a made-in-Nunavut *Official Languages Act*, and an *Inuktitut Protection Act*. They have begun the living dictionary, or *Asuilaak*, an on-line dictionary that is intended to become one of the most comprehensive sources of information on Inuktitut, with over 80,000 words, definitions and English and French translations.

The federal and territorial governments have also hosted terminology workshops for the development of both Inuktitut and Inuinnaqtun. The Government of Nunavut's efforts have focused on developing Inuktitut and Inuinnaqtun terms for finance and statistics and for job titles. The federal government has been developing, along with Eva Arreak, former Nunavut Languages Commissioner, a 'mining-specific' vocabulary to standardize Inuktitut words that have no local equivalent.

(d) Testing and Accountability

It was also suggested that there is a real need for more structured approaches to teaching Inuktitut, with resource materials that formalize the process and make it capable of ongoing assessment. There are methods to measure a student's vocabulary in English at any level; for instance you can say that a child is reading "at a grade 2.4 level". There is no equivalent way of gauging the progress of the Inuktitut stream, and no materials that teach the language in a methodical way. As a result it is impossible to gauge the Inuktitut-speaking students' progress prior to graduation from elementary school into high school; it is also difficult to identify teachers whose students might be having particular difficulty so that problems can be addressed.

(4) Supporting Programs

(a) Pre-School Skills Enhancement

I have earlier described that supplementary pre-school programs will be necessary if Inuktitut is to be preserved and enhanced in the territory. I have suggested that the New Zealand Maoris' "language nests" provide an inspiring model of what can be achieved at the local, grass-roots level. I have also suggested that Head Start programs should be employed wherever possible.

More formal inclusion of Inuktitut in other pre-schools, daycares and recreational activities will also be of great assistance. Programs to train instructors of all these programs must be provided in Inuktitut as well. Such programs too will have to be developed in each community. A long term strategy for the development of these programs, the instructors to work in them, and the learning materials to support them must be developed and costed. But if done in conjunction with the program of bilingual education I here propose, the parents and community leaders who take on these challenges will know that their efforts are not in vain and that they are building an important component of the larger system that is supported at all levels of the community and of government.

The key to success, as in so many other areas of endeavour in Nunavut, will be flexible, community-based approaches based on the models provided. Communities will need to learn about the characteristics of bilingual education programs that are effective. Communities will need to base decisions about their language programs on research into the language status in their community. Communities will need to

determine the linguistic assets they have to incorporate in and assist with programs. Communities will need to try out different ideas and identify best -practices. Some will work better than others, and success must be built on success. Communities must share their stories with one another, so that all can benefit from both positive and negative experience.

(b) Trades, Vocational and Cultural Instruction in Schools

Another very common request was for a commitment to trades training. It was said that the governments act as if the only valuable graduate is one who's going on to university, and that this is one reason so many who cannot compete academically, or whose ties to traditional activities (e.g. hunting in summer) make the prospect of many 'southern style' jobs uninteresting, and drop out of school. It was felt that, if an alternative path were available, through shop or cooking classes, many more students would make it through to graduation. Work on high school program options, including trades training must continue and accelerate. Schools need to share best practices in these areas and continue to develop local initiatives that support hands on, experiential, practical project learning of skills and knowledge related to community life – to real life.

Local initiatives by teachers which combine formal school work with culturally-significant projects have been successful. At Chesterfield Inlet, over three years, a teacher, without the usual shop facilities, supervised the construction by students at Victor Sammurtoq school of 10 traditional kayaks. The project created widespread community interest and involvement, and significantly, school attendance during the construction was very high. This year the students are planning a trip in the kayaks to a traditional hunting and camping area.

Another noteworthy success has been in Sanikiluaq, where a number of innovations have been implemented. An arts and crafts program of jewelry making, basket weaving, doll and kayak making, and so on has students involved at all stages – from hunting animals to skin preparation through manufacturing the products and eventually marketing and selling them. A carpentry program allowed students to build a house; this year they are building a daycare centre and next year a women's shelter. These programs, coupled with other community initiatives, have brought students back to school, and brought community members in to the school to transmit skills. They have improved the self-esteem of the students and the pride of the parents and the community.

Such ideas depend on the initiative and commitment of community leaders and the full participation of the people.

(c) Post-Secondary Initiatives

I am making a number of suggestions to improve the post-secondary success of Inuit students. But here too there is room for grass-roots innovation.

Students returning to their communities from the South should be invited to share their experiences. When students go away to school they should, in a sense, take the community with them. When they return, they should bring their experiences back. Children struggling in school and their parents need exposure to these role models, and the communities can provide opportunities to bring them together.

There are many opportunities for Inuit students to gain experience with the wider world. I describe the Nunavut Sivivut program in some detail in Part VI.D.(1) below. There has also been the Nunavut Youth Abroad Program, which provides Inuit students with unrivalled opportunities for international

travel and work. The students and graduates of these programs are a valuable resource to the generations of Inuit youth following behind.

(d) Daycare Programs

Women and girls in Nunavut tend to become mothers much earlier, on average, than their Southern counterparts. This has important ramifications beyond the immediate strain that it can put on families and communities. It makes it difficult for students to stay in school or return to school. It presents unique challenges for the delivery of education in Nunavut at all levels.

Anyone visiting Inuit communities will also be struck by the devotion of the Inuit to families and communities. Inuit culture promotes closeness, and the reluctance of Inuit to travel to pursue careers or educational opportunities (either in the South or in other Nunavut communities) is an ongoing challenge for the delivery of educational and employment programs. Such programs must be sensitive to this phenomenon, and appropriate childcare arrangements may need to be a feature of any successful program.

C. For Immediate Action: Specific Near-Term Initiatives

My main recommendation has to do with bilingual education in the schools. Its purpose is to tackle the drop-out rate, for this is the long-term means of achieving the objective of Article 23. Yet, there are near-term initiatives that can be taken to improve Inuit representation under Article 23. There are six of these. Two of them, programs for summer students and interns, are directly aimed at qualifying for employment under Article 23. Two others, Nunavut Sivuniksavut and improved access to scholarships, are for high school graduates. Improved career and education counseling and adult literacy / mature graduation programs focus on improving Inuit participation in both education and the workforce.

For convenience, I have set out brief summaries of these initiatives below. Fuller versions of the Government of Nunavut's specific proposals, (that is to say, each of the following proposals except the first, which is not a Government of Nunavut initiative), have been developed by the Government of Nunavut and can form the basis for discussions on their implementation.

D. The Proposals

(1) *Nunavut Sivuniksavut*

Since 1985, Nunavut Sivuniksavut (NS) has offered an 8-month program of accredited courses in conjunction with Algonquin College in Ottawa. The idea is to bring Inuit high school graduates to the south, and instruct them on issues topical to their identity as Inuit: they learn of Inuit history, the *Nunavut Land Claims Agreement*, the structure of the government in Nunavut and the role of Inuit organizations such as Nunavut Tunngavik Inc. They participate in Inuit cultural activities, and learn to make presentations at local schools, colleges and universities in Ottawa and elsewhere about Inuit life and culture. They do it, of course, while living and studying in a city in the South. The program is therefore an academic bridge between the North and the South, and more importantly between adolescent life in the communities and life in the workforce, both public and private.

Even though it has had a remarkable continuity of dedicated staff, NS has been operating on a shoestring since its inception.

It has, however, a remarkable record. A recent NS survey contacted 180 of NS's 230 graduates. Only four were unemployed. Of the remainder, 40 percent were employed in government, 15 percent in Inuit organizations, 19 percent in the private sector, and 19 percent were continuing with post secondary education.

Reading the list of occupations of NS's graduates, it is apparent that virtually all have chosen to return to serve their communities in Nunavut. One owns an aviation company; another is a reporter for CBC Radio in Iqaluit. Three went on to the Akitsiraq Law Program. Even among those pursuing further education, it might be expected that the majority will return. One is learning to be a pilot, another studying geology at the University of Western Ontario, a third taking health sciences at Algonquin in Ottawa. These are only examples plucked at random from a long list. They illustrate what Inuit high school graduates can achieve.

It is not easy to predict exactly what programs will work in the unique environment of Nunavut. NS is teaching Inuit high school graduates about Nunavut and about themselves, *in Ottawa*, far from home. Yet, perhaps counter-intuitively, it works and works very well.

Perhaps the most striking figure is the completion rate: over the past 10 years, between 80 and 85 percent of NS students have graduated, a remarkable figure when the nature of program and its distance from home – geographically and culturally – is considered.

NS is a nonprofit organization and a registered charity, with strong oversight. My sense is that few pennies are wasted, except those that must go to fundraising: since only NTI has committed to long-term funding of NS, the program must go cap-in-hand to other organizations and donors to ensure ongoing support. This is a strain on the minimal administrative resources available.⁸⁴

There are limits to the capacity for expansion of the NS program. It currently has 22 students enrolled, from a pool of 50-60 applicants, of whom perhaps 30-40 are considered to meet the current standards for admission.

No one wants to see NS become altogether institutionalized; its small size and ability to adapt rapidly to the needs of its students has been, all agree, the secret to its success. Nevertheless it appears that these advantages would not be lost if the program were expanded to offer places to all of the 30-40 students who annually would qualify to participate. This would permit core classes to be taught to all the students together, but might also permit smaller, optional classes on some subjects. Public administration, for instance, might be taught as an option to better prepare students for public service in Nunavut.

NS has begun a pilot project for a second year of courses in conjunction with Carleton University, the University of Ottawa, the University of the Arctic,⁸⁵ and Algonquin College.

The NS Board has designed a projected budget of approximately \$1.3 million per year to cover the expanded program they propose.

⁸⁴ Aside from three full-time instructors, NS has only one full-time and one part-time staff member charged with running the program and providing tutoring and other support for the student body.

⁸⁵ The University of the Arctic is a cooperative network of universities, colleges, and other organizations in a number of Northern Hemisphere countries dedicated to higher education and research in the North. Nunavut Arctic College and several Canadian universities are members.

The success of the NS program indicates that, if Inuit children can win through to graduation, they can do very well in any field of work or study.

(2) *Summer student program*

Summer student programs introduce students to government work, and provide a financial incentive for students to continue their secondary or post-secondary education.

The GN proposal is to double the size of the present summer student program, with an additional cohort of approximately 150 Inuit students (historically about one-quarter to one-third of summer students have been non-Inuit). The plan would ensure that summer students would be present in every Nunavut community. It is believed that no additional infrastructure would be required to support the larger program, and that the cost of the expansion will be approximately \$950,000 per year.

(3) *Internship Program*

Although expensive, internship programs have proven a successful method of moving Inuit into the middle ranks of government employment. They have the advantage of a level of familiarity in Nunavut and many departments have developed effective internship models that can be readily expanded.

The GN proposal is to increase the number of Sivuliktiks positions from 14 to 24, and to introduce a new internship program (80 positions by 2011) for non-management (intermediate) level positions throughout the government. This will also require 7 administrative positions to coordinate the program.

The five-year total cost of this program is expected to be \$40 million.

(4) *Community Career Development Officers*

A career development officer would develop personal education/career plans for children, their parents, and adults in each community. The purpose of this initiative is to provide all Nunavummiut with access to career counselling, assessment and career development services to allow them to determine their level of essential skills, to identify possible employment avenues, and to obtain the required training to enter the workforce. By focusing services on the needs of the learner, it will be easier to target specific programs and services where and when they are most needed, and to link career development with available employment opportunities.

There are currently 15 funded Career Development Officers in Nunavut, with modest operating budgets. The intention would be to create a Nunavut-wide service, with Career Development Officers in every community in Nunavut, linked to Nunavut Arctic College, post-secondary schools and community organizations.

The program would also see the implementation of Nunavut Community Skills Information System, including Nunavut-wide employment data base, client module, job matching services, essential skills evaluation. Within the context of the Nunavut Adult Learning Strategy, the Government of Nunavut, with the support of 28 Nunavut-based employment and training organizations, has been designing a series of on-line tools which can be used to create a Community Skills Inventory System, to provide job matching services, and to develop individualized education, training and career planning. Funding is required to implement the System, which will provide detailed data, information on career planning, and will link Nunavummiut with employment and training.

The Government of Nunavut estimates that the program will cost \$3.3 million in the first year, and about \$2.6 million for each year going forward.

(5) *Mature Graduation / Returning Student Programs*

Provide Nunavut-wide access to Mature Graduation Diploma programs in all communities in Nunavut which link Literacy/Adult Basic Education Programs.

Nunavut is the only jurisdiction in Canada without a mechanism by which mature students can obtain their high school diploma. This situation was inherited from the NWT in 1999. As a result, literacy and Adult Basic Education (ABE) programs attempt to fill the void, and College and advanced training and education programs must deal with participants who may not have the levels required to succeed.

High school education to Grade 12 was only introduced to Nunavut communities in 1986. In 1999, 43.3 percent of Nunavut's population had less than Grade 8 education, and 75.1 percent had Grade 11 or less. There were significant variations between the educational achievement levels of Inuit and non-Inuit, with non-Inuit more likely to have completed high school, college or university level programs. Thus, the majority of Inuit employees and potential Inuit employees in Nunavut, who represent the majority of the labour force, have less than Grade 11 education. The consequences of this can be seen in the composition of the Nunavut workforce. Seventy-six percent of Nunavut's Inuit population have a high school diploma or less. Although the minimum requirement for recruitment into positions in the Government of Nunavut is technically a Grade 12 certificate, approximately 45 percent of Inuit employees do not have a high school diploma.

Developing a high school graduation diploma for mature students and introducing a dual credit system would allow for the immediate addressing of a serious discontinuity in the existing education system. These initiatives would refocus education programs that are currently developed and run in isolation from each other, and which are not necessarily making the best use of existing financial resources, and they would allow a segment of the population not now being served to become active in their learning.

The anticipated startup costs for the program as proposed would be \$1.85 million, with the program costing \$5.225 million each year thereafter.

(6) *Scholarships*

Nunavut students who wish to undertake post-secondary studies face unique barriers. There are no degree-granting post-secondary institutions in Nunavut, nor is there a trade school. The nearest such programs are in large, unfamiliar cities at least 2,000 kilometers from the students' home communities, most of which have no sizeable Inuit community for support. Travel is prohibitively expensive. With approximately 60 percent of Inuit families receiving income support, seeing a family member pursue such an education is for most a distant dream.

The Government of Nunavut has invested its own resources to begin addressing this issue. Nunavut Arctic College has established partnerships with degree granting universities to deliver programs that provides academic excellence in a manner that is sensitive to the culture and distinctive learning needs of Inuit students. The Nunavut Teacher Education Program, the Nunavut Nursing Program and the Akitsiraq Law School are examples of successful partnerships.

Currently students are eligible for financial assistance through Nunavut's Financial Assistance for Nunavut Students (FANS) program; however, this program only addresses basic financial needs such as

living expenses, travel and books and does not reflect the increased cost of Post Secondary Education and skills training nor the length of time required to complete post-graduate programs.

Nunavut students are eligible to apply for scholarship programs in Nunavut and across Canada. However, most scholarships are for general support and not occupation-specific.

Government of Nunavut Scholarships would be designed to encourage Inuit students to enter post secondary programs and skills training. The scholarship program would be geared to professional designations in which the Government of Nunavut currently recruits over 90 percent of their hires from outside the Territory, such as teachers, accountants, specialists in hard sciences, health practitioners, engineers and architects, journeyman apprentice tradespeople, and policy professionals.

The Government of Nunavut proposes the awarding of 200 scholarships of \$5,000 each for undergraduate studies, 100 apprenticeship scholarships of \$2,500 per year, and 25 scholarships of \$10,000 per year for masters and doctoral level study. The total cost per year would be \$1.5 million.

(7) Summary of Costs for Near-Term Initiatives

The near-term initiatives I describe above can be summarized as follows:

- Expansion of Nunavut Sivuniksavut program: \$1.3 million per year;
- Expansion of summer student program: \$950,000 per year;
- Expansion of internship programs: \$40 million over five years or \$8 million per year;
- Community career counsellor program: \$3.3 million in the first year and \$2.6 million each year thereafter;
- Mature graduation/returning student program: \$1.85 million in start-up costs and \$5.225 million each year thereafter; and
- Scholarship program: \$1.5 million per year.

This represents a total cost in any given year, once these programs are under way, of about \$20 million.

As I have said earlier, the comprehensive bilingual program I am proposing would be introduced in stages; its cost, which would be additional to those listed above, would have to be the subject of further discussions between Nunavut and Canada.

6.9 Climate Change, Sovereignty, and the Future of the Inuit

A. Nunavut in Canada's Foreign Policy

The *Nunavut Land Claims Agreement* is not only of national importance but of international importance: Nunavut is central to Canadian foreign policy, and will only become more so. NTI has put it this way:

Implementation of comprehensive land claims agreements is commonly "ghettoized" in the Department of Indian Affairs and Northern Development, far from the locus of national and international policy debate between central agencies. This is not surprising, perhaps, in light of the small scale and local nature of many comprehensive land claims agreements. This is not, however, the case with the 1993 *Nunavut Land Claims Agreement* which intersects with Canada's national and international interests and obligations, and foreign policy objectives.

The centrality of the Agreement and of Nunavut to Canadian foreign policy in the Arctic is determined by the sheer size of Nunavut and the length of its coastline. Nearly forty percent of Canada is above the 60th parallel; and the geographic centre of Canada is near Baker Lake, in Nunavut, considerably north of the tree line.

The Arctic basin is no longer remote. The Arctic Ocean is surrounded by the islands and coastal regions of Russia, Alaska, Canada, Greenland and Scandinavia.

Indeed, there is already an international dimension to Canada's stewardship of the Arctic.

Areas designated by the *Nunavut Land Claims Agreement* as "Inuit Owned Lands" include areas with significant and proven mineral potential, and zones of high biological productivity. Sometimes referred to as "Arctic oases," many high productivity wetlands within Inuit-owned land are nationally and continentally important breeding and staging areas for migratory birds managed, in part, under the Migratory Birds Convention with the United States. Some wetlands in Nunavut (Queen Maud Gulf, Polar Bear Pass, Rasmussen Lowlands, and Dewey Soper) have been designated under the 1971 Ramsar Wetlands Convention and others are pending.

Inuit wildlife harvesting rights to the onshore and offshore include species of international importance and concern including large cetaceans such as bowhead whales, and marine mammals including polar bears. Polar bears are managed under the five-nation Polar Bear Convention, to which Canada is a party. Inuit traditional ecological knowledge, as outlined in articles 8j and 10c of the Convention on Biological Diversity, which Canada has also ratified, is increasingly important in setting harvest quotas by the Nunavut Wildlife Management Board.

Canada appointed its first ambassador for circumpolar affairs in 1990.

In 1996 the Arctic Council was established; its members are Canada, the U.S., Denmark, Norway Sweden, Finland, Iceland and Russia.

In 2001 Canada formally acknowledged the need to develop a "Northern dimension" to Canadian foreign policy.

But now Arctic warming has greatly added to the importance of this Northern dimension.

With Arctic warming, the landscape and seascape may be greatly altered. The Nunavut Settlement Area includes huge offshore waters such as the Northwest Passage and the other passages through the Arctic Islands. Canada asserts full jurisdiction and control over these waters as internal waters. The United States, the United Kingdom and the European Union do not accept Canada's assertion and characterize the waterways instead as international waters. If this contention were to prevail, it would limit Canada's authority to regulate shipping to combat marine pollution in what we claim to be Canadian waters. It might also give rise to disputes over ownership of oil and gas and mineral resources under the sea.

Canada may find that it is fully engaged in the Arctic, that it is as important a subject for the Department of Foreign Affairs as our Atlantic or Pacific coasts.

Experts disagree on whether the retreat of the ice in the Arctic archipelago represents an impending threat to sovereignty, as other countries and shipping firms challenge Canada's claim over Arctic waters, or a law enforcement problem (as "rogue" shippers begin to move through the passage without adequate regulation).⁸⁶ Either way, though, all agree that the Inuit are key to demonstrating and maintaining Canada's control over the Arctic. Professor Franklyn Griffiths has written:

We should build a stronger capacity for collective choice in the Canadian Arctic... Inuit know the area best. They are constant in their attachment to it in ways that southerners cannot equal. In partnership with the Federal government, they will insist on an exercise of control which is not remote but sensitive to local conditions, not agitated about a distant place but grounded in that place.⁸⁷

NTI puts it this way:

In short, effective implementation of the [*Nunavut Land Claims Agreement*] contributes significantly to the objectives of the Government of Canada's 2001 Northern Dimension Foreign Policy. Some foreign governments characterize Nunavut as the "test" by which Canada is evaluated in terms of its treatment of aboriginal peoples and the key measure of its approach to northern development. Certainly Canada has and continues to trumpet Nunavut as an international model of accommodation between an Indigenous people and a nation state in which they reside.

B. The Changing Physical Environment and Economic Development

Although experts disagree over the rapidity of climate change and the extent to which it can be attributed to human activity,⁸⁸ there is no question that global climate change is a reality.

⁸⁶ The debate is captured in competing articles by professors Rob Huebert and Franklyn Griffiths: see for instance Rob Huebert, "The Shipping News Part II: How Canada's Arctic Sovereignty is on Thinning Ice" (2003) 58 International Journal 295; Franklyn Griffiths, "Pathetic Fallacy: That Canada's Sovereignty is on Thinning Ice", (2004) 11 Can. Foreign Policy 1.

⁸⁷ Griffiths, *Ibid.* at p. 14.

⁸⁸ There is substantial agreement that human industrial activity is at least a significant contributing factor. At the Gleneagles summit in Scotland in July, 2005 the G8 leaders subscribed to a document entitled "Climate Change, Clean Energy and Sustainable Development," which states:

"Climate change is a serious and long term challenge that has the potential to affect every part of the globe. We know that increased need and use of energy from fossil fuels, and other human activities, contribute in large part to increases in greenhouse gases associated with the warming of our Earth's surface."

We are accustomed to news of climate change, of the challenge that global warming may represent; nevertheless, for most of us in the temperate zones it is a distant rumble. In the Arctic, however, climate change is not remote. It is already happening.

We are now calling it climate change, but in the Arctic it is the *warming* that is apparent. It can be seen everywhere: Permafrost is melting, storm surges across extended open water are eroding the banks of coastal communities, the ice goes out earlier and forms again later than it did before, shifting patterns of ice and snowfall impede the migration of caribou as well as the seasonal movements of polar bears and seals.

On November 8, 2004 the Arctic Climate Impact Assessment (ACIA) was made public. It was sponsored by eight Arctic countries and carried out by a team of 300 scientists. The report, 1800 pages long, entitled "Impacts of a Warming Arctic", included findings that:

- "The Arctic is warming much more rapidly than previously known at nearly twice the rate as the rest of the globe, and increasing greenhouse gases from human activities are calculated to make it warmer still."
- "In Alaska, Western Canada, and Eastern Russia average winter temperatures have increased as much as 3 to 4 C (4 to 7 F) in the past 50 years, and are projected to rise 4 to 7 (7 to 13 F) over the next 100 years."
- "Arctic summer sea ice is projected to decline by at least 50 per cent by the end of this century with some models showing near-complete disappearance of summer sea ice. This is very likely to have devastating consequences for some arctic animal species, such as ice-living seals and for local people for whom these animals are a primary food source. At the same time, reduced sea ice extent is likely to increase marine access to some of the region's resources."
- "Warming over Greenland is projected to lead to substantial melting of the Greenland Ice Sheet, contributing to global level rise at increasing rates. Over the long term, Greenland contains enough melt water to eventually raise sea levels by about 7 meters (about 23 feet)."

Moreover, global warming may be accelerating. NASA's study of the Arctic ice, released on September 28, 2005 shows that Arctic ice cover has shrunk by 10 per cent in the last four years. The extent of Arctic sea ice in September last year was 20 percent below the long-term average for September, melting an extra 500,000 square miles.

In the summer of 2005 the Arctic pack ice retreated to its smallest size in recorded history, about 5.5 million square kilometres (in 1979 it was 7.5 million square kilometres). Every year, it is said, the polar ice cap is smaller by an area the size of Lake Superior.

Springtime melting in the Arctic has begun much earlier; in 2005 it started 17 days sooner than expected. In Greenland, across Davis Strait, the past two years were the warmest ever recorded in some of the coastal communities.

Ten years ago the people at Cape Dorset could travel in September or October over the ice of Telluk Inlet to Baffin Island. Last year they couldn't make the journey over the ice until mid-December. In Iqaluit, in December, Inuit were putting to sea in Frobisher Bay in small pleasurecraft; I was told that, even a few years past, they could far more easily have walked across the frozen Bay. Birds such as robins are

appearing for the first time. The anecdotes were universal; no one who has more than a few years' experience in the Arctic doubts that change is upon us.

James Hansen, director of NASA's Goddard Institute for Space Studies, in a presentation to the American Geophysical Union, December 6, 2005, said that:

Earth's climate has neared, but has not passed a tipping point beyond which it will be impossible to avoid climate change with far-ranging undesirable consequences. This includes not only the loss of the Arctic as we know it, with all that implies for wildlife and indigenous peoples, but losses on a much vaster scale due to rising seas.

The increasing warming of the North has obvious ramifications for economic development. The warming of the Arctic will make Nunavut's minerals, its oil and gas more accessible. The opening of the Northwest Passage and the other passages through the Arctic Islands will bring navigation and shipping.

The Inuit have in the *Nunavut Land Claims Agreement* safeguarded rights of harvesting, so as to ensure the survival of subsistence (hunting, fishing and trapping) activities, the principal means by which people of the Arctic and sub-Arctic have survived in the past. In our own time they still provides a measure of self-sufficiency. Arctic warming, however, may bring accelerated industrial activity. And it may mean the loss of animal species the Inuit have depended on for centuries. Polar bear, walrus, and other marine mammals and birds may over time be at risk of extinction. The hunting and food sharing culture of Inuit may be under significant threat. I know it is said that with global warming species will flourish in the new climate and replace the species that are gone. But no one can predict such things with any confidence.

Global warming could bring not only physical change but also demographic change to Nunavut - the possibility that an altered landscape, greatly increased navigation, mining on a much larger scale, and access to Arctic oil and gas might bring non-Inuit in numbers. I am not suggesting the agricultural frontier would migrate northward to the Arctic. But the number of permanent residents who are non-Inuit could significantly increase. It will be necessary to secure the place of the Inuit in the economic life of Nunavut as well as in their own public service.

Arctic warming may transform Nunavut. Resources that were locked in the snow and ice inaccessible through the frozen waterways may now be opened up.

The coming decades are likely to be a period of uncertainty and yet at the same time one of opportunity in the North; the Inuit must be ready to take their place – not only in the public service but also in the private sector as miners, drillers, mechanics, mariners, geologists and engineers.

This makes the case for the type of bilingual education program I am recommending, one qualifying the Inuit for post-secondary training and for work in the public sector or the private sector all the more compelling.

C. The Inuit and Arctic Sovereignty

The melting of polar ice has brought the world's attention to the fact that the Northwest Passage and the other passages through the Arctic Islands may in the quite foreseeable future be navigable for substantial periods of each year. Ownership of the resources and authority over the sea routes – in short, sovereignty over the North – is a topic of increasing discussion.

Effective occupation is one of the keys to sovereignty under international law. The immemorial presence of the Inuit in Canada's Arctic, as much as British and Canadian voyages through the Arctic Islands, is fundamental to Canada's claim. For centuries, the Inuit were the sole occupants of the Arctic Islands and most of Canada's Arctic coastline. They lived on the land and on the ice; they harvested the resources of the land and the sea. We used to think of the early explorers of the Arctic and sub-Arctic as if they were tracing their way across some far-off planet. We thought of them as the first cartographers of the Arctic. In Canada we now know, through Aboriginal mapping projects conducted in recent years, that before Europeans came the Arctic was already mapped by the Inuit—traced all over by their hunting patterns.

Canada was established in 1867. It did not then include the vast territory it encompasses today. It consisted of four provinces extending from Nova Scotia to the head of Lake Superior. It did not include northern Ontario or northern Quebec. Its borders did not reach James Bay or Hudson Bay, let alone the Arctic and the Arctic Islands. At Confederation, therefore, Canada did not include the traditional territory of the Inuit.

The United Kingdom formally transferred Rupert's Land and the North-Western Territory to Canada in 1870, and then the Arctic Islands in 1880. The Inuit still held Aboriginal title over much of this area. But more importantly, the Inuit used and occupied their traditional territories in ways that Canada could not. Canada's gradual assertion of control over the Arctic was achieved not through conquest but rather through a remarkable partnership. The joint RCMP and Inuit dogsled patrols and oceanic voyages (such as the famous voyages of the *St. Roch*⁸⁹ in 1940-42 and 1944) helped to secure Canadian sovereignty in the High Arctic.

A special reservist unit, the Canadian Rangers, was established in 1947 to provide a permanent Canadian military presence in even the remotest communities.⁹⁰ To this day the almost entirely-Inuit Canadian Rangers are the only substantial full-time military presence in Nunavut and they continue the tradition begun by the RCMP/Inuit patrols, but with snowmobiles in place of dog teams. This year, the Inuit Rangers and Canadian Forces will conduct the most ambitious series of patrols yet undertaken: five teams supported by aerial resupply that will traverse disputed waters under the codename Operation Nunaliut (meaning "the land is ours").

Canada's desire to establish its sovereignty in the High Arctic also led, at least in part, to the 1953 decision of the federal government to resettle some Inuit families farther North.⁹¹ Seven families from the Inukjuak (Port Harrison) area in northern Quebec and three families from Pond Inlet in what is now Nunavut were resettled in communities at Resolute Bay on Cornwallis Island and at Grise Fiord on Ellesmere Island. Over the next three years, the number of resettled families rose to seventeen. These Inuit communities remain the most northerly Canadian presence apart from the military personnel who man a remote listening post at CFS Alert on the northern tip of Ellesmere Island, about 800 km south of the Pole.

⁸⁹ At Vancouver's Maritime Museum today you can visit the *St. Roch* and see the quarters provided for Capt. Henry Larsen and his RCMP crew, and the tent on the foredeck occupied by the Panipakoocho family who accompanied Larsen on his 1944 voyage through the Northwest Passage.

⁹⁰ At present, the First Canadian Rangers Patrol Group (1 CRPG) has the majority of its patrols in Nunavut, manned almost entirely by Inuit. 1 CRPG conducts 30 sovereignty patrols to remote areas every year. The Rangers also perform security and search-and-rescue functions in the North, and assist in survival training for Canadian Forces and allied personnel.

⁹¹ A similar program begun in the 1930s had been more or less abandoned by the end of World War II. There is still debate regarding the true impetus behind the resettlement; it may have been motivated also by what the federal government believed were greater opportunities for sustained wildlife harvesting in Resolute and Grise Fiord.

The preamble to the *Nunavut Land Claims Agreement* recites the considerations that impelled the Parties to in 1993 to enter into the Agreement. One of the considerations is stated in this way:

“AND IN RECOGNITION of the contributions of Inuit to Canada’s history, identity and sovereignty in the Arctic.”⁹²

This provision is unique in Canadian relations with Aboriginal peoples: No other comprehensive land claims agreement or historic treaty acknowledges the contribution of an Aboriginal people to Canada’s sovereignty in this way.

In signing the 1993 *Nunavut Land Claims Agreement*, the Inuit formally ceded to Canada their Aboriginal title to Nunavut.⁹³ In Article 2.7.1 the following appears:

2.7.1 In consideration of the rights and benefits provided to Inuit by the Agreement, Inuit hereby:

- (a) cede, release and surrender to Her Majesty The Queen in Right of Canada, all their aboriginal claims, rights, title and interests, if any, in and to lands and waters anywhere within Canada and adjacent offshore areas within the sovereignty or jurisdiction of Canada; and
- (b) agree, on their behalf, and on behalf of their heirs, descendants and successors not to assert any cause of action, action for a declaration, claim or demand of whatever kind or nature which they ever had, now have or may hereafter have against Her Majesty The Queen in Right of Canada or any province, the government of any territory or any person based on any aboriginal claims, rights, title or interests in and to lands and waters described in Sub-section (a).

Only with this formal cession was Canada's claim to the Arctic and the Arctic Islands complete, unburdened by Aboriginal title. The signing of the *Nunavut Land Claims Agreement* was thus a vital step in strengthening Canada's claim of sovereignty. For Canada to assert sovereignty over the Arctic and the Arctic Islands while the Aboriginal people who have always inhabited them had not yet freely ceded their title would have been more than an embarrassment; it would have impaired Canada’s claim of sovereignty as against other nations.⁹⁴

Today, because the Inuit still use and occupy the Arctic, they continue to contribute to Canada’s “history, identity and sovereignty in the Arctic.”

In years to come Canada, in asserting its claim, will be dependent on international law. The Inuit presence in the Arctic, their use of the sea and the sea ice, is the surest proof of Canada’s claim. As the ice melts and shipping lanes open and resources become accessible, their long-standing occupation of the land and

⁹² This same acknowledgement is repeated in the Partnership Accord signed in 2004 with the Inuit Tapiriit Kanatami, which represents Inuit from all regions of Canada.

⁹³ The *Nunavut Land Claims Agreement* was preceded in 1984 by the Inuvialuit Land Claims Agreement, ceding the Aboriginal title of the Inuvialuit in the Western Arctic to Canada.

⁹⁴ To be sure, once sovereignty is asserted by a nation over lands occupied by an Aboriginal people, the courts of that nation must act accordingly, whether Aboriginal title has been surrendered or not. In the international arena, however, in the case of Arctic waters, the issue is not so easily resolved.

the waterways (every one of Nunavut's 27 communities is on tidewater) will work to Canada's advantage. Canada must see that the opening of the Arctic works to the advantage of the Inuit.

6.10 *Epilogue*

In the negotiations leading to the signing of the *Nunavut Land Claims Agreement* in 1993, the Inuit of the Eastern Arctic were faced with a choice. They chose to have their aspirations expressed, not through the establishment of an Aboriginal government dealing directly with Ottawa, but rather through a public government: the Government of Nunavut. In fact they insisted on it. Such a government, they believed, would be close to the people, yes, but it would also be something more: it would permit the Inuit people to express themselves through a political entity that emerged organically within our the federal system, one of unquestioned legitimacy on the national and – as subsequent experience has shown – on the international stage. The new Territory is unique, a jewel in the crown of Canadian federalism.

The success of Nunavut will ultimately be measured by the extent to which Inuit are able to participate in their own government and in the changing economic life of the Arctic.

The recommendations I am making are based on the experience we have had thus far, the goals of the Government of Nunavut, and the work of its Department of Education, considered in the light of academic knowledge. My job has simply been to bring these ideas together in the context of the *Nunavut Land Claims Agreement* and Canada's own experience and within the context of Arctic policy-making.

Despite our attempts to separate the Inuit from their language, history and culture, their determination to retain their distinctive identity has sustained them. We see the outward signs of cultural loss and decay; we often do not comprehend the persistence of Inuit culture and values. I believe the Inuit are prepared for the challenge.

The steps needed to assert Canadian sovereignty in the Arctic will have to be measured over decades as the ice recedes. The establishment of infrastructure and the utilization of resources will be a long-term proposition. A unified Arctic strategy for sovereignty and industrial development must be founded on the long-term interests of the Inuit, which I believe can best be served by the program I am recommending.

John Amagoalik has written, in an essay entitled "We Must Have Dreams":

We must teach our children their mother tongue. We must teach them what they are and where they come from. We must teach them the values which have guided our society over the thousands of years. We must teach them the philosophies which go back beyond the memory of man....

When I talk about the future and try to describe what I would like for my children, some people sometimes say to me that I am only dreaming. What is wrong with dreaming sometimes dreams come true, if only one is determined enough. What kind of world would we live in if people did not have dreams? If people did not strive for what they believe in? We must have dreams. We must have ideals. We must fight for the things we believe in. We must believe in ourselves.

7 Nunavut Tunngavik Inc. (NTI)

7.1 Statement from NTI

Under the *Nunavut Land Claims Agreement* (NLCA), Inuit exchanged common law Aboriginal land rights for rights and benefits defined in the Agreement. These rights and benefits included promises respecting Inuit harvesting rights, land title, Inuit employment in government, government contracting, and economic development. At the same time, the NLCA immediately reduced the uncertainty placed on Canada's title to one fifth of its land mass. The Agreement established resource management processes for enabling the participation of local people in development where none existed before.

There is no question that the Crown has benefited immensely from the ability to legitimize encroachments on lands and waters traditionally used by Inuit. The Government of Canada has also benefited from the knowledge and commitment of the local people that have been harnessed in the effort of managing Nunavut's natural resources more effectively. The Agreement, however, is contingent on the fulfillment by the Crown of the objectives and obligations of the NLCA.

The Government of Canada has failed to provide many of the key benefits promised to Inuit as their part of the Agreement. These include a commitment to achieve specified Inuit employment levels under Article 23, to honour procurement policies under Article 24, and to establish a General Monitoring Program under Article 12. The NLCA is supposed to provide Inuit with the means of participating in economic opportunities: the failure to deliver on these commitments undermines the Agreement's foundational objectives. The NLCA is also meant to encourage the self-reliance and cultural and social well being of Inuit. Instead, as the Auditor General of Canada has noted, the Department of Indian Affairs and Northern Development has attempted to manage the NLCA "by focussing solely on the letter of the obligations, appearing not to take into account the [NLCA] objectives or the spirit and intent of the agreement."⁹⁵

This has contributed to a deepening sense of frustration between Inuit and the Government of Canada - a sense that the NLCA has become a contract that only one party is honouring.

During the period 2001-2004, fruitless negotiations took place between NTI, the Government of Canada and the Government of Nunavut to update the 10-year (1993-2003) funding commitments of the NLCA Implementation Contract. Progress was sought in areas that NTI believes are fundamental implementation failures. Although these negotiations were not successful, they did lead to the recruitment of former B.C. Justice Tom Berger as a Conciliator in early 2005. After more than a year of intensive effort, Mr. Berger filed his final report on March 1, 2006.

NTI promptly accepted the recommendations set out in Mr. Berger's report. The Government of Canada has not done so; nor has it agreed to use binding arbitration to settle unresolved disputes.

⁹⁵ 2003 Report of the Auditor General of Canada to the House of Commons, Chapter 8.9.3, page 20.

At March 31, 2006, NTI was considering legal action to compel the Government of Canada to honour the implementation promises made by the Crown in the NLCA.

8 Government of Nunavut (GN)

8.1 *Department of Executive and Intergovernmental Affairs*

The Department of Executive and Intergovernmental Affairs (EIA) provides support for all Government of Nunavut (GN) departments implementing elements of the *Nunavut Land Claims Agreement* (NLCA). EIA also has obligations relating to the Nunavut Implementation Panel (NIP). These include:

- NIP meetings;
- Annual reports;
- Five Year Review of NLCA Implementation;
- Funding items and decisions for Institutions of Public Government (IPGs);
- Trans-boundary issues;
- Advising Canada on claims tabled by other jurisdictions adjacent to Nunavut;
- Coordination of all GN implementation responsibilities, and related activities;
- Nunavut General Monitoring Program;
- Leading the development of proposals for GN endeavours related to the NLCA;
- IPG proposals;
- Update of Implementation Contract;
- Negotiation and submissions of proposals in partnership with IPGs and other departments.

During the reporting period EIA continued to implement elements of the NLCA with support to other departments.

EIA participated in negotiations to renew the Implementation Contract for the next period of 2003-2013. The Implementation Contract was established in part to ensure funding for the implementation of all obligations in the NLCA. The initial funding period was from 1993–2003. The second funding period is for 2003–2013. To date, the parties have not reached an agreement on the funding levels for the 2003–2013 period.

Negotiations were left unresolved as of June 2004. In May 2005, all parties agreed to appoint a conciliator to assist with the stalled negotiations. In June 2005, Thomas Berger was appointed.

On August 31 2005, the conciliator released an interim report to the parties, providing recommendations relating to IPGs and funding levels.

In 2004/05 the NLCA required that the GN participate in the independent Five-Year Review of Implementation for the period 1998-2004. The GN assisted in this process throughout 2005 and 2006 through interviews with an independent consultant. The report is scheduled to be released by the end of 2006.

There has been a great deal of work with NTI on issues relating to the NLCA in the past few years.

The review of the previous Clyde River Protocol with NTI produced a renewal of priorities agreement called Iqqanaijaqatigiit. It provides a framework for both organizations to work effectively together by identifying areas of mutual interest and associated priorities, work plans and timelines.

Nunavummi Nangminiaqtunik Ikajuuti (NNI) activities under Article 24 have been assigned to the Department of Economic Development and Transportation (ED&T). This Department is also included in the GN team participating in the Article 23 Working Group with NTI.

The ongoing process of producing federal enabling legislation for the Nunavut Planning Commission (NPC) and the Nunavut Impact Review Board (NIRB) in cooperation with INAC and NTI has been productive; a draft version of the bill is expected by fall 2007.

The Nunavut Senior Officials Working Group (NSOWG) also dealt with a number of claims-related issues, and proved to be a constructive forum for the examination of broad policy issues related to the implementation of the land claim.

8.2 Department of Community Government and Services

The Department of Community and Government Services (CGS) has responsibilities relating to Article 11 (Land Use Planning), Article 14 (Municipal Lands), Article 23 (Inuit Employment and Training) and Article 24 (Government Contracts) of the NLCA. Implementation of these obligations continues, despite the lack of NLCA-specific funding allocations during one fiscal year in the reporting period.

The number of titled lands within municipalities continues to grow as an increasing number of lots are surveyed each year. CGS views the transfer of lands as an ongoing function of the Department. As new lots are surveyed, the Department assists the municipalities in the preparation of Land Acquisition Bylaws and other appropriate documents. CGS also worked with the Land Titles Office (LTO) in transferring title of municipal land within the built-up area to the municipalities. These initiatives have helped to expedite the land transfer process.

Through the Strategic Investment Northern Development program provided by Canada (INAC), CGS will be creating an inventory of lots over the next two years to ensure that all future development will be on municipal land. CGS is also working with LTO to waive the fees currently associated with transferring fee simple title to the municipalities. The incremental costs imposed on the Department of meeting the requirements of Article 14 were not anticipated in the funding provided for the initial planning period under the Implementation Contract. This resulted in survey plans being held up, as CGS did not have adequate funding to cover registration fees at the Land Titles Office. CGS and LTO are optimistic that the fees will be waived in the near future.

In 2004/05 CGS began working with the Department of Justice on a mechanism for transferring large tracts of land outside built-up areas that have not been surveyed. The Department also partnered with Natural Resources Canada (NRCAN) to review alternative mechanisms to facilitate the transfer of lands.

CGS continues to administer and control the 100-foot reserve on behalf of the Commissioner, and untitled lands within municipal boundaries for the benefit of the municipalities in accordance with Parts 4 and 5 of Article 14.

CGS assists all municipalities in developing and creating community plans embracing the principles outlined in Parts 2 and 3 of Article 11. At this time, 24 Nunavut communities have developed a Community Plan or Land Use Plan. Six other regions are in the process of developing plans. Each region has the ability to hire a consultant and to produce the plans in-house.

CGS is also currently participating in the IPG talks to ensure that Part 7 of Article 11 of the NLCA is employed, and that there is cooperation between the NPC and municipal planning authorities.

In order to increase communities' capacity to administer their own lands and in support of Article 23 (Inuit Employment and Training), the Department created the Municipal Training Organization (MTO) in partnership with the Nunavut Association of Municipality Administrators. The MTO is a non-profit organization that provides a wide range of planning and lands courses. CGS provides daily assistance and training to all community planning and lands administrators.

8.3 Department of Justice

8.3.1 Legal Counsel Services

Nunavut Justice provides legal services to all GN departments undertaking operations and processes mandated by the NLCA.

It continues to provide assistance with NLCA-mandated legal procedures such as expropriation, board and tribunal hearings, and arbitration and litigation relating to the NLCA. Implementation-related negotiation support was provided, for example, in negotiations to implement Inuit Impact and Benefits Agreements (IIBAs).

Legal advice was also provided to the GN related to the development of important Federal legislation to implement the NLCA, such as legislation to implement Articles 11 (Land Use Planning) and 12 (Development Impact). Legal Services assistance has also been provided for NLCA-mandated land transfers, including the correction of past transfers.

8.3.2 Legislative Drafting

The Legislation Division provides support to government departments and agencies in drafting changes to Nunavut legislation for greater consistency with the NLCA, and in providing translations of legislation into Inuktitut.

This Division is responsible for the preparation of all bills in English, French and Inuktitut; for preparing summaries of each Act and translating it into Inuktitut; for assisting government departments and agencies in developing policy consistent with the NLCA that ultimately is reflected in legislation; and for publishing and making public the legislation enacted.

During the reporting period, the Division continued the work of redrafting pieces of legislation to ensure that they properly reflect the NLCA. Much attention was given to the continuing preparation of the Education Act, redrafting the text to properly reflect consultation and discussions.

8.3.3 Legal Registries Services

The Land Titles Office (LTO) administers the Land Titles Act (Nunavut) and provides guaranteed titles under a modern legal regime. The Office is responsible for registering municipal and Inuit Owned Lands under Articles 14 (Municipal Lands) and 19 (Title to Inuit Owned Lands) of the NLCA. LTO staff also consult with and assist Municipal Lands Officers (MLOs) and other public agencies with land title requirements to support effective administration of municipal lands.

Under Article 14.3, the LTO issues fee simple titles for all municipal land parcels, records encumbrances, and issues separate leasehold titles when needed. This may be preceded by registering survey plans to reflect new land development and remediating existing surveys when lot lines must be varied for existing structures or roadways. When surveys are completed for remote municipal infrastructure sites, the LTO registers them and issues titles. The NLCA requires issuance of two separate titles for each parcel for both the fee simple and leasehold estates, due to limits on alienation contemplated in Article 14.8. Under Article 19.8.12, the LTO reviews survey plans for Inuit Owned Lands relative to existing descriptive map plans, registers them, and issues titles for the resulting fee simple and mines and minerals estates.

With regard to the administration of land titles within the claim, a considerable amount of highly skilled qualitative analysis is required on an ongoing basis. One notable aspect of the Torrens system being used to assess the land titles is that all parcels of land must be based on existing survey tracts. This means that the system must be based on the best science available. Because of the size of the tracts involved in the various present and prospective land claims, conventional survey-based criteria are not feasible. Nunavut has assisted, and will continue to assist, in what is essentially a fundamental reinvention of the Torrens system. The approach has been, and will continue to be invented and refined in response to stakeholder needs, advances in technology, and increased resources.

The complexity of administering land titles in Nunavut means that there are extraordinary staffing needs compared to the operational demands of a more mature jurisdiction. An analysis of need shows that the Land Titles Office requires two additional professionals to carry out this task – a Senior Counsel with extensive Torrens land administration experience, and a Canada Land Surveyor.

The Court Services Division has continued to hire more Inuit employees, provide on-the-job training, and encourage Inuit staff to consider moving into a variety of more senior court positions.

The Department also provided support in the negotiations of Implementation Funding for the next 10-year period (2003 – 2013).

8.4 Department of Environment

The Department of the Environment (DOE) is responsible for the implementation of some of the most significant obligations established by the NLCA. These obligations transect almost all sections of the claim. Articles 5 (Wildlife), 6 (Wildlife Compensation), and 7 (Outpost Camps) define DOE responsibility for ensuring the effective and timely implementation of all co-management responsibilities as they relate to Nunavut's HTOs, RWOs and Wildlife Management Boards. The Department holds ultimate responsibility for wildlife conservation and management, Inuit harvesting rights, outpost camps, and compensation for wildlife.

Articles 8 (Parks) and 9 (Conservation Areas) establish DOE responsibility for the implementation of an IIBA for all territorial parks, and for negotiating and implementing IIBAs for conservation areas either under shared jurisdiction or solely under the jurisdiction of the territorial government. Co-management is a cornerstone of both the NLCA and IIBA as it relates to territorial parks and conservation areas.

Under Articles 10 (Land and Resource Management Institutions), 11 (Land Use Planning), 12 (Development Impact), and 13 (Water Management), DOE is mandated to work with IPGs to ensure that Nunavut's natural resources are protected and enhanced through effective co-management of land use planning, development impact reviews, water management, and other forms of support to land and resource management institutions. DOE also has ancillary or secondary responsibilities for obligations under Articles 15, 16, 20, 21, 40, and 42, which are part of the day-to-day operational mandate of the Department.

8.4.1 Inuit Impact and Benefit Agreements (IIBAs)

IIBAs help to ensure that Inuit receive economic benefit from the establishment and operation of territorial parks and conservation areas through the protection of first rights of refusal, and access to other economic opportunities related to the operation of the parks and conservation areas. The umbrella IIBA for Territorial Parks in Nunavut includes 15 initialled Articles that will ensure effective and meaningful Inuit participation in park management and planning. The Nunavut

Joint Park Management Committee (NJPMC) outlined in Article 13 of the IIBA plays a strong role in the co-management of territorial parks, and in defining the direction and development of a new Nunavut park program and system plan.

During the reporting period, NTI and Canada requested that the GN be made a Party to the Umbrella IIBA for Heritage Rivers under section 8.4.3 of the NLCA. The GN agreed to be a Party to the IIBA on the condition that Canada would fund any additional obligations, and that the GN's role would not impact on its existing operational budgets or on any existing claims funding already flowing to the GN through the implementation contract.

Formal negotiations began in November 2004 with the exchange of a framework and outline for the IIBA. The negotiation sessions held in April 2005 were the first to include the GN as part of the Canada caucus. Negotiations remain ongoing.

8.4.2 Territorial Parks IIBA

Since the formal approval of the Territorial Parks IIBA on May 13, 2002 the then Department of Sustainable Development (now Department of Environment, DOE), NTI, and the three Regional Inuit Associations (RIAs) have been working to implement the agreement.

Despite the fact that implementation efforts have been hampered by a lack of funding, the parties to the IIBA have been able to accomplish the following:

Article 5 – Inuit Contracting and Business Opportunities

- Developed a Park-Specific Contracting Procedures Policy that has been approved by GN Cabinet and is now included in the GN's NNI policy;
- Established a Parks Contract Working Group (PCWG) which has been meeting regularly to monitor the contracting process for territorial parks for each fiscal year;
- Set up parks contracts in accordance with Article 5 of the IIBA.

Article 6 – Education and Employment Benefits

- GN invites the participation of NTI in screening and interviewing new hires of GN Park full time employees;
- GN Parks summer and casual employment policies give preferential treatment to beneficiaries.

Article 7 – Park Information, Materials and Facilities

- Interpretative and signage programs are consistent with language requirements in the IIBA.

Article 15 – Implementation and Review

- Completed and submitted a Draft Implementation Plan to the parties;
- Completed and submitted a Draft Work Plan to the parties;
- Prepared and submitted numerous proposals for funding from other sources to implement IIBA obligations.

A Draft Park Specific Appendices (PSAs) Discussion Paper, and related Draft PSA was also completed and submitted to the Parties.

Co-management is a cornerstone of both the NLCA and IIBA as it relates to territorial parks. The Territorial Parks IIBA provides for territory-wide and local involvement in the development and management of territorial parks. Under the terms of the IIBA, the GN, along with NTI, Qikiqtani Inuit Association (QIA), Kitikmeot Inuit Association (KitIA), and the Kivalliq Inuit Association (KivIA), appoints representatives to these co-management committees. Appointments for the territory-wide committee have now been completed by the parties; however, these appointments presume federal support by way of implementation contract funding.

Implementation of the IIBA and co-management of territorial parks are now at a critical juncture. If adequate funding is not received through Implementation Contracts, it will not be possible for DOE to implement components of the IIBA.

The federal government has an underlying and ongoing responsibility to provide adequate incremental funding to the GN to meet its obligations under the NLCA. To date, the federal government response in negotiations for the second contract has been less than adequate. The last response from INAC to the GN funding proposal for the new planning period stated that:

“The GN and NTI have indicated that IIBA implementation funding must be based on identified amounts and appropriate to the developmental nature of Territorial Park System. Taking this into consideration and in further review of the information provided previously, Canada is prepared to provide a contribution of \$230,000 annually to the GN to help provide opportunities for Inuit to see real benefits from Nunavut’s park system now and over the coming years”.

The funding amount identified by INAC is insufficient and falls far short of those identified in the GN proposal; this will leave the parties to the IIBA unable to successfully implement it.

The NLCA requires the federal government to make certain that adequate funding is available to enable all government obligations under the NLCA to be properly carried out. Providing funds to “help” or “contribute to” implementation of the IIBA falls far short of this requirement.

8.4.3 Thelon Wildlife Sanctuary

The Department completed the coordination of the Thelon Wildlife Sanctuary Management Plan with KivIA, the NWMB, INAC, NTI, and the affected communities of Baker Lake and Lutsel ke. In June 2003 the GN presented the Management Plan to NWMB, which conditionally approved it in July 2004. The Minister of DOE accepted the NWMB’s approval in August 2004, and the Minister of INAC provided the final plan approval in August 2005.

In keeping with Article 9 of the NLCA, the KivIA is now seeking an IIBA for the Sanctuary.

Since the Thelon Wildlife Sanctuary is a Federal Conservation Area, it is Canada's responsibility to provide all resources and legislative changes (if any) to implement the Management Plan, including the negotiation and implementation of an IIBA.

8.4.4 Park Information

The Department continues to ensure that all publications, signs, kiosks and interpretation material related to parks are produced in Inuktitut and one or more of Canada's official languages. DOE worked closely with Parks Canada, the Canadian Wildlife Service, and other federal and territorial partners to promote and communicate the roles for Parks and Conservation Areas in Nunavut.

8.4.5 Wildlife Legislation and Regulations

From 2002 to 2003 the GN and NTI participated in a working group that successfully completed the draft Wildlife Act, which was subsequently passed by the Legislative Assembly in July 2005. The working group then produced the draft regulations and orders necessary to implement the Wildlife Act. These draft regulations and orders have been completed and submitted to the NWMB for review and approval of those elements within their jurisdiction. The NWMB will review this material at a series of public hearings in September, October, and December 2006. The GN and NTI have been participating in the NWMB hearings to provide input and expert advice into the decision making process of the NWMB. The NWMB is expected to complete its decisions on the regulations and orders in early 2007, and forward these decisions to the Minister for implementation. NTI has been asked to provide its final comments on the entire package of regulations and orders so that full implementation can proceed on receipt of the decisions of the NWMB.

8.4.6 Co-management of Wildlife

During 2004/05 all Divisions prepared material to reflect the impact of the implementation of the NLCA on the Department over the next 10-year funding period (2003–2013). Following consultation with the GN negotiating team, this material was incorporated in the overall Government of Nunavut position document, which was presented in February 2005.

The Department continued to work closely with the NWMB, RWOs, HTOs and NTI on wildlife research and management activities. Departmental staff regularly attended NWMB meetings and provided written reports and recommendations on specific topics. Staff also regularly attended RWO and HTO meetings to exchange information and collaborate on research and management projects.

The Department continues to work towards establishing inter-jurisdictional agreements to cover the shared management of trans-boundary wildlife populations. In accordance with the NLCA, the Department works to ensure that NWMB, NTI and the RWOs are involved in developing these agreements.

8.4.7 Land Use Planning

In 2004/05 the Department of Environment coordinated the review of the Draft Kitikmeot Land Use Plan prepared by the NPC on behalf of GN departments and agencies. The Plan required revisions to better reflect the roles of the GN in wildlife management, environmental protection, cultural and natural heritage resources, parks and tourism, research, and other legislative mandates.

DOE worked with EIA and other GN departments to develop broad land use policies and objectives required under Article 11.4.1 (a) of the NLCA. When completed, these policies will be discussed with NPC and the federal government, pending formal approval.

DOE continued dialogue with the NPC regarding the products coming from the current Land Use Planning model and the appropriateness of the Land Use Planning model in relation to the NLCA.

DOE also continued to provide input into the review and update of principles, policies, priorities and objectives for the established planning regions, and to select and nominate GN representatives to the IPGs.

8.4.8 NLCA Funding

As part of the NLCA contract negotiating process, the Department of Environment provided the GN Negotiating Team with a detailed funding proposal for carrying out its responsibilities under the NLCA for the new contract period (2003–2013). This included funding for wildlife and environmental protection, and for the new Territorial Parks IIBA. Following consultation with the GN negotiating team, this material was incorporated into the overall GN position document, which was presented in February 2005.

The proposal was based on a reasoned assessment of incremental costs, and included a number of areas not provided for under the previous Implementation Contract. As a result, these areas have become incremental responsibilities to the DOE and the GN as a whole. The proposal estimated incremental costs for DOE to be approximately \$7.2 million per year.

DOE continues to assist EIA in negotiations for the second contract period. The federal government response to these proposals has been less than adequate, and DOE has serious implementation issues that remain outstanding and unresolved. Examples include:

- Delivery of additional responsibilities contained in the new Nunavut Wildlife Act that are tied to Article 5 of the NLCA;
- The Umbrella Territorial Parks IIBA signed by the Premier and presidents of NTI and the RIAs on May 13, 2002.

Receiving adequate funding in future Implementation Contracts and other agreements will help to ensure that DOE and the GN as a whole can meet its responsibilities under the NLCA, and that Inuit of Nunavut will receive the full level of benefits arising from the NLCA.

9 Government of Canada

9.1 Implementation from a Federal Perspective

9.1.1 Coordination of Federal Implementation Activities

The Implementation Branch (IB) of Indian and Northern Affairs Canada (INAC) is responsible for monitoring federal government activities in order to ensure the Government of Canada is meeting its obligations and responsibilities under the *Nunavut Land Claims Agreement* (NLCA). IB consults regularly on implementation matters with government officials in INAC and other departments, and exchanges information with implementation managers for Government of Nunavut (GN) and Nunavut Tunngavik Inc. (NTI) on policy, legal and administrative matters pertaining to implementation.

Many issues have been raised in this Annual Report by all of the parties who are involved in the NLCA. It is to be expected that divergent perspectives will emerge in the course of implementing an agreement as complex as the NLCA. While INAC may not share the same view as NTI and GN on some of the issues explored in this report, we respect the fact that all parties have their own approach on how to best implement the NLCA and to address the challenges faced in implementing the agreement.

9.1.2 Implementation Funding under the *Nunavut Land Claims Agreement*

IB is responsible for managing funding arrangements with the Implementing bodies established by the NLCA, as well as for capital transfer payments to the Nunavut Trust.

9.1.3 Status of Contract Negotiations as of March 31, 2006

The Implementation Contract is of indefinite duration and provides that parties would enter into negotiation to determine the amounts of funding to be provided under the Contract for the next implementation planning period.

Negotiations relating to updating and renewing the Nunavut Implementation Contract began in 2001 and reached an impasse in 2004. The outstanding issues contributing to the impasse were funding for the Institutions of Public Government (IPGs) and a renewed process for dealing with the objectives of Article 23 (Inuit Employment within Government). The Nunavut Conciliation Process began in June 2005, when the parties engaged Mr. Thomas Berger to prepare an objective assessment of the issues contributing to the impasse and develop mutually acceptable solutions.

Based on the Interim Report, the parties agreed to propose increased funding levels for the IPGs, subject to the parties' internal approval processes.

9.1.4 Challenges Identified from 2004-2006

9.1.4.1 Federal Involvement at the Nunavut Implementation Panel

The NIP is responsible for overseeing the implementation of the NLCA. The Director General of the Implementation Branch is Canada's representative to the NIP.

Canada is committed to utilizing the NIP as a forum for resolving issues and disputes, and for continuing to foster positive relationships amongst the parties. It has therefore been a matter of concern to Canada that NTI has been unwilling to meet regularly at the panel level to jointly discuss and attempt to resolve important implementation issues during the period covered by this report. Canada has tabled many suggestions to promote better management, decision-making and problem solving by the Panel. INAC's goal is to help panel members work together to create a cooperative, collaborative and effective instrument for implementation. Canada also wishes to use the Panel to provide support to the IPGs as required.

9.1.4.2 Article 24 (Government Contracts)

Article 24 states that government shall provide reasonable support and assistance to Inuit firms in order to enable them to compete for government contracts. INAC fulfills its obligation under Article 24 through the issuance of Contracting Notices by the Treasury Board.

NTI has requested that various issues relating to the implementation of Article 24 be referred to Arbitration. Canada has responded noting that we share NTI's interest in resolving the outstanding issues related to the implementation of Article 24 and are prepared to begin to explore options for dispute resolution. Canada has also sent NTI a copy of the Terms of Reference and work plan for the Article 24 Working Group. This was done prior to the time covered in this Annual Report. The Working Group would explore the basics of contracting and procurement, review existing economic development activities in Nunavut, and map out key business activities and procurement opportunities. Canada and NTI still have not reached agreement on this issue. Canada is interested in exploring non-binding mediation as a form of dispute resolution.

INAC, the Treasury Board Secretariat (TBS), and Public Works and Government Services (PWGSC) have begun preliminary investigations into current and future reporting policies and mechanisms on Government of Canada activities in regions covered by comprehensive land claim agreements, and are exploring potential options for the improvement of both the quality and quantity of data collected.

9.1.4.3 Article 23

Mr. Thomas Berger made various recommendations in his Final Report with the goal of assisting the parties in working together in continuing to achieve the objectives of Article 23. The main recommendations of the Final Report garnered significant national and local media coverage and include:

1. A bilingual Inuktitut-English education program to increase graduation rates and provide a qualified pool of high school graduates; and
2. Near-term initiatives to increase the number of qualified Inuit in the public service in Nunavut.

Near-term recommendations include increased federal commitments in areas of territorial programming, primarily in the area of pre-employment training (e.g. internship), summer student placement, and other career development programs. The near-term initiatives contribute to increased levels of Inuit employment in the immediate future to accompany the long-term bilingual education strategy.

While Mr. Berger has made several far-reaching recommendations relating to bilingual education, this falls within territorial jurisdiction. However, because of the importance of improved education outcomes to the future of Nunavut, INAC is prepared to work with both the GN and NTI to discuss how Mr. Berger's proposals might be best addressed.

Article 23.7.1 of the NLCA directs the NIP to arrange for an independent review at five-year intervals to determine if the obligations under this Article are being fulfilled. Terms of Reference for conducting the Article 23 review have been developed by all of the parties; they do not, however, take into account the findings of the second Five Year Review or Mr. Thomas Berger's Final Report. Canada has not seen any willingness by the NIP to develop a plan to address issues identified by the review, including how the Panel itself functions. Canada is not prepared to commit any resources to a review of Article 23 without strong evidence that the reviews that already exist will be acted on jointly by the parties.

9.1.5 Highlights from 2004-2006

9.1.5.1 Article 19 (Title to Inuit Owned Lands)

Section 19.2.5 of the NLCA states that if a lake is cut by the boundary of an Inuit-Owned Land (IOL), the entire lake is outside the IOL. However, straight-line boundaries of IOLs cut a large number of small lakes not depicted on original maps, or cut lakes that seemed to be inside IOL on the original maps. The problem is that the presence of many small lakes means that the total amount of land that becomes IOL may not be the full quantum; furthermore, excluding those from IOL may reduce the opportunity of NTI to benefit from the discovery of diamonds. INAC, in consultation with the Nunavut Regional Office, Natural Resources Canada (NRCan), Kitikmeot Inuit Association (KitIA) and NTI have agreed to an amendment that essentially allows for straight line boundaries to extend across small water bodies, and the bed of these bodies will be partly Inuit-owned land and partly Crown land.

9.1.5.2 Labour Force Survey

The LFS is a national household survey that has been conducted in Nunavut since 2000, which provides reliable data on the labour market conditions in Nunavut. After extensive analysis the Nunavut Bureau of Statistics and Statistics Canada decided that data from January 2004 onward would be released. These figures provide valuable insights for government, Inuit organizations, and the public on territorial labour market trends. Funding for assessing the analysis of the data was provided through a multi-year agreement between Service Canada and the Government of Nunavut Bureau of Statistics in relation to Article 23 of the NLCA.

9.1.5.3 Other Key Federal Successes

- INAC's Nunavut Regional Office (NRO) Inuit Employment Plan has laid a strong foundation for the NRO to increase its Inuit representation;
- Environment Canada (EC) has participated in the recent completion of three major Article 12 (Development Impact) environmental impact reviews (the Doris North Gold Projects, Meadowbank Gold Project and Jericho Diamond Mine), as well as the Article 13 (Water Management) water licensing of the Jericho Diamond Mine and the closure and reclamation activities at the Nanisivik Mine;
- EC implemented the Federal Contamination Sites Action Plan in Nunavut, which has funded remediation activities at 25 sites and assessment activities at 41 sites across Nunavut, assisting custodians in fulfilling Article 11.9.1 obligations;
- Parks Canada (PC) has made progress in developing an ecosystem monitoring program for the national parks in Nunavut. New funding is available from Parks Canada to support this initiative, which must be complete by 2008;
- PC has produced extensive promotional materials including exhibits, maps, brochures, DVDs and videos, a website and educational materials. PC also produced Nunavut Tourism Strategies for the communities associated with national parks;
- Department of Fisheries and Oceans (DFO) Eastern Arctic Area staff have been participating in an International Polar Year (IPY) Regional Task Group for the Central and Arctic Region, as well as exchanging information with various organizations, co-management partners and governments;
- DFO has been working to fulfil its habitat protection mandate. It issued a Fisheries Act Authorization for the Jericho Diamond Project in March 2005. It was anticipated that the site would be ready for full production in the summer of 2006. Miramar Hope Bay Limited completed the environmental assessment for their Doris North Gold project in the Kitikmeot Region and is now advancing into regulatory approvals;
- A successful bowhead whale hunt took place near the community of Repulse Bay in August 2005. Monitoring by DFO officials took place and samples were taken;
- Public Works and Government Service Canada's (PWGSC's) Northern Contamination Sites Group signed a Memorandum of Understanding with INAC to provide services for a restoration and clean-up program, which includes former Distant Early Warning (DEW) Line sites across the arctic, as well as abandoned gold, copper and silver mines;
- The Department of Canadian Heritage (PCH) has made progress in advancing Inuit inclusion in significant national policy development and program design relating to Inuktitut language and Inuit culture. Inuit beneficiaries were included as advisory team experts and in public consultation on three major national gatherings on Arts & Culture, Traditional Knowledge and Aboriginal Culture and Tourism, and on the Ministerial Task Force on Aboriginal Languages and Cultures;
- The Nunavut Resource Management Act (NRMA) Working Group met on several occasions during 2005/06. The result of their work was the completion of two Tracking Documents that will provide legislative drafters with comprehensive background information for the development of legislation. In late fall 2005, Canada began preliminary drafting of the bill, and a first draft of the bill is nearing completion;
- The land survey activities for the Inuit-owned land parcels for the NLCA are complete. The program is now addressing remedial and plan registration issues. From the NRCan

perspective, it was felt that the projects within the program continued to have a high degree of respect and trust between NTI, Inuit decision makers, communities, and NRCan employees. This respect and trust was critical to the success of the work completed on Inuit Owned Lands.

9.2 New Developments Impacting the Federal Approach to Implementation

9.2.1 Conciliation: Mr. Thomas Berger's Interim Report, August 2005

The Interim Report made recommendations on how the parties to the NLCA could improve their working relationship on the NIP, and on ways to resolve implementation issues that may arise. Mr. Berger noted that an effective dispute resolution process is crucial to the smooth functioning of the Panel and that the parties should keep non-binding mediation in mind as a tool that the Panel may use for resolving disputes. Through the NIP, a new approach should be adopted that is consistent with the broad objectives of the NLCA.

The Interim Report also focussed on issues of funding for IPGs, the General Monitoring Plan, Dispute Resolution, and recommendations for a renewed approach to implementing the NLCA.

9.2.2 The Nunavut Project: Mr. Thomas Berger's Final Report, April 2006

The Final Report addresses Article 23 of the NLCA, which focuses on improving Inuit employment levels within government. According to the report, the main obstacle in this area is not Canada's willingness to hire Inuit employees. Rather it is in the fact that the Government of Canada has difficulty recruiting and retaining qualified Inuit employees. Mr. Berger's findings were that Article 23 cannot be dealt with in isolation. Mr. Berger describes the current gaps in education in Nunavut and their implications for the future of the territory. He then makes new and innovative recommendations for addressing this issue that are outside of the administration of the *Nunavut Land Claims Agreement*.

Mr. Berger recommended that GN and Canada develop a joint strategic plan that sets out objectives and timeframes for developing the bilingual education strategy.

9.2.3 PriceWaterhouse Coopers Independent Five Year Review of the NLCA

The Final Report of the second independent Five Year Review of Implementation of the NLCA was released to the parties in spring 2006. The period covered by this review was January 1999 to July 2005. The mandate of the review was to:

1. Assess the status of implementation for each of the Articles of the NLCA;
2. Identify the barriers to implementation and options to address the barriers;
3. Identify examples of success, and

4. Assess the effectiveness of implementation and provide recommendations for improving the effectiveness of the implementation process.

PriceWaterhouse Coopers recommended improvements in the areas of consultation, monitoring, and dispute resolution. The consultants also noted that barriers to effective implementation include: differences in interpretation regarding objectives and obligations; lack of monitoring; lack of agreement on what constitutes an appropriate consultation process; and the lack of an effective dispute resolution process, particularly at the Panel level.

The Government of Canada has proposed that the NIP meet to develop a joint Action Plan for moving forward with the five year review recommendations. INAC will be meeting with various federal government departments to discuss key recommendations of the review and ensure that federal concerns are addressed.

9.2.4 Land Claims Agreements Coalition

In June 2006, Aboriginal leaders representing all of the Aboriginal peoples of Canada who have entered into comprehensive land claims agreements since 1975 met together in Gatineau. “Achieving Objectives: A New Approach to Land Claims Agreements in Canada” was a three-day conference attended by hundreds of people, including Aboriginal leaders, public servants, and politicians.

INAC played a key role in funding the conference, and many senior federal officials attended and participated in various discussion and working groups.

9.2.5 Conclusion

During the 2004-2006 reporting period, significant challenges to implementing the NLCA were encountered. However, Canada remained committed to working with its partners to successfully implement the obligations contained in the NLCA, as well as living up to the spirit and intent of the NLCA.

9.3 Environment Canada

9.3.1 General

Environment Canada (EC) opened its Nunavut office in Iqaluit in 1999, and currently maintains a staff of eight employees dealing with wildlife, environmental assessment, contaminated sites, pollution enforcement and weather stations. In 2005/06, 38 percent of staff were land claim beneficiaries. In 2005, a manager’s position and a *Species at Risk Act* coordinator were staffed in Iqaluit for the Eastern Arctic operations of EC’s Northern Conservation Division. In addition, a new enforcement officer was appointed for the Environmental Protection Division. Field programs by EC in Nunavut involved more than 20 contractors. This included at least five Inuit field assistants and a number of Inuit who provided logistical support.

9.3.2 Article 5: Nunavut Wildlife Management Board

The objective of Article 5 is to create a system of harvesting rights, priorities and privileges, and wildlife management, including establishment of the NWMB.

EC continued to fulfill its obligations relating to the NWMB. A summary of EC's wildlife research in Nunavut was presented to the NWMB, including activities related to the new Species at Risk legislation, and key wildlife priorities in each region of Nunavut. EC staff participated in the NWMB's quarterly meetings throughout 2005/06.

9.3.3 Article 9: Inuit Impact Benefit Agreements

Article 9 outlines obligations relating to conservation areas in Nunavut, including management of existing and new conservation areas, and Inuit Impact and Benefit Agreements (IIBAs).

9.3.3.1 IIBAs

In 2001, negotiations were initiated between several designated Inuit organizations (NTI, the three RIA's, and the Clyde River HTO) and the Canadian Wildlife Service (CWS) to develop an umbrella IIBA that would cover all of CWS' conservation areas in Nunavut. The previously initiated Igaliqtuuq IIBA will be negotiated as part of the umbrella IIBA. Negotiations have progressed through the reporting period and both negotiating teams look forward to completed negotiations in the near future. With completion of the IIBA, three new conservation areas will be created at Igaliqtuuq, Qaqqulluit and Akpait.

9.3.4 Article 11: Land Use Plans

EC continues to provide reviews and information on land use planning in Nunavut to the Nunavut Planning Commission (NPC). In 2005, discussions were held regarding permits and interactions between various non-government organizations in Nunavut.

EC - Environmental Protection Branch (EPB) staff continue to participate in the clean-up of contaminated sites in Nunavut, reviewing proposals for the clean-up of abandoned former DEW Line Sites as well as abandoned military sites, navigational aids, mine sites, and fuel caches. EPB staff also participated in site investigations and in the administration of the Federal Contaminated Sites Accelerated Action Plan.

9.3.5 Article 12: Development Impact

EC continues to review project proposals and provide advice to the NIRB on proposed development activities within Nunavut, including both Part 4 and Part 5 reviews. EC - EPB staff continue to participate in the implementation of project certificates issued by the NIRB.

9.3.6 Article 13: Water Management

EC continues to participate in the water licensing process in Nunavut through the provision of advice to the Nunavut Water Board (NWB) on applications, and participates in public hearings on water license applications.

9.3.7 Article 23: Inuit Employment

As part of EC's Inuit Employment Plan, three Inuit beneficiaries are currently in indeterminate positions in Iqaluit. These include a wildlife technician and SARA Coordinator with the CWS office in Iqaluit, and an enforcement officer with EPB.

In addition to these permanent employees, most EC field programs hire and train individuals from nearby communities to work as wildlife research assistants. In 2005, Inuit research assistants were hired from Cambridge Bay, Arviat, and Coral Harbour.

EC also worked with communities on gathering local ecological knowledge that might be useful to migratory bird management. EC has been working with the communities of Resolute Bay and Pond Inlet since 2005 to investigate changes in sea ice and the occurrence of certain species of seabird. In these endeavours, EC hired local contractors and/or paid honoraria to interviewees.

EC took part in the Nunavut Science Outreach committee, an inter-agency group of territorial, federal government, and university scientists with an interest in encouraging youth to take an interest in and learn about science.

9.4 Fisheries and Oceans Canada

9.4.1 Conservation and Protection

While 2004/05 was a fairly stable year in terms of maintaining the level of staff in the Department, 2005/06 saw some changes to the permanent Conservation and Protection Staff in the Eastern Arctic area. There are four indeterminate positions in Iqaluit and two in Rankin Inlet. The positions located in Iqaluit include Area Chief (PM-06); Field Supervisor (PM-04); and 2 Fishery Officers (GT-04). One GT-04 is on parental leave from November 2005 and will return on July 3, 2006. The PM-04 and GT-04 positions in Rankin Inlet became vacant in October 2005 and DFO is in the process of staffing these positions. During the summer of 2005 one Fishery Officer from Nova Scotia completed a 3-week term in the Rankin Inlet office to assist with general office and hunt monitoring duties.

In addition to enforcement duties, Conservation and Protection staff members worked with communities and various organizations to make conservation education presentations in schools and at public meetings to promote the prudent harvest and use of marine mammals and fish.

9.4.1.1 Monitoring

Marine mammal hunt monitoring in communities under community-based management for narwhal and beluga was a priority for Conservation and Protection during the reporting period. Floe edge monitoring patrols were conducted in Arctic Bay to monitor the narwhal hunt and in Iqaluit to monitor the beluga hunt. Some open water hunt monitoring took place in Repulse Bay, Arviat, the Pangnirtung area, and the Frobisher Bay area near Iqaluit. Although the reported marine mammal harvest numbers have appeared low, especially for beluga, the unofficial numbers suggest that the past few years have been successful harvesting years.

9.4.1.2 Arctic Charr

Fishery officers from Rankin Inlet monitored the Cambridge Bay commercial Arctic Charr fishery in 2004/05, and Iqaluit fishery officers continued monitoring charr sport fishing on the Sylvia Grinnell River throughout the reporting period. Researchers also collected data from the domestic/subsistence and sport charr harvests. 2006 marks the fourth year that Iqaluit area charr harvest data has been collected, and that parts of the Sylvia Grinnell River have been closed for netting and snagging at the request of the Amarok HTO. DFO participated in joint patrols with GN wildlife officers.

9.4.1.3 Bowhead Whale Hunt

A successful bowhead whale hunt took place from the Foxe Basin/North Hudson Bay stock by the community of Repulse Bay in August 2005. This was a joint initiative of DFO, NWMB, RWOs and local HTOs. DFO staff monitored the hunt and took scientific samples.

9.4.1.4 Fishery Legislation

The Draft Nunavut Fishery Regulations have been undergoing legal review for the past two years. The draft regulations were presented to co-management partners in January and February 2006, and discussions are ongoing. DFO area staff will participate in the consultation process in order to get community feedback on the proposed legislation.

9.4.2 Area Licensing

During the reporting period Area Licensing Administrators worked on the Fishery Observer Program and on new experimental licenses for emerging fisheries and charr fisheries. The previous Area Licensing Administrator resigned in January 2005 and was replaced in March 2005. As the offshore Greenland halibut (turbot) and shrimp fisheries expand in Nunavut, the workload for the licensing sector increases. The Qikiqtarjuaq food safety protocol for bi-valve molluscan shellfish was extended, but no harvesting took place. There are ongoing initiatives being reviewed for monitoring offshore groundfish and shrimp fisheries. One example of this is “vessel tracking management” which tracks offshore vessels digitally by satellite and through electronic log books which report fishing activity. The Area Licensing Administrators updated and compiled statistical and licensing data for regional and national reporting systems.

9.4.3 Fisheries Management

As an alternative to a quota-based system, seven Nunavut communities participated in Community-Based Management (CBM). Fisheries Management staff were actively involved in assisting Hunters and Trappers Organizations (HTOs) with drafting rules, and in providing assistance to other co-management partners; NTI, the Nunavut Wildlife Management Board (NWMB), and the Regional Wildlife Organizations (RWOs). In an ongoing commitment to conservation, education and community involvement, DFO staff successfully held public consultation meetings in many CBM communities. 2005 was the first year of a new 3-year trial period for beluga within these communities. This extension of the original beluga CBM was recommended by the CBM working group early in the 2005/06 fiscal year. 2006 was the third year of the new 5-year trial period for CBM for narwhal in 5 communities.

The attendance of DFO staff at HTO and community meetings strengthened the relationship between the community of Pangnirtung and DFO. Based on this growing relationship, a Charr Fisheries Management Plan is being drafted in partnership with Pangnirtung. It is hoped that this model can then be applied to other charr fisheries in Nunavut. 2005 was the last year for charr sampling on the Sylvia Grinnell River near Iqaluit. DFO continues to work closely with the Amarok Hunters and Trappers Association (HTA) and the NWMB on stock assessment, and on a Fisheries Management Plan for the Sylvia Grinnell River. As incorporating traditional knowledge is an integral part of managing Nunavut's resources, DFO staff collaborated with the Amarok HTA to make changes to the way the Sylvia Grinnell River fishery is managed. These changes have remained in place since August 2002.

The GN's DOE hosted Fisheries Strategy Forums in three different regions in Nunavut in the fall of 2004. These forums focused on the economic development of all fisheries species, on infrastructure to facilitate such development, and on identifying sustainable and exploratory fisheries in Nunavut and adjacent waters. DFO staff attended all of the regional workshops and submitted written comments to the GN. The Nunavut Fisheries Strategy was released in March 2005.

DFO also hosted consultations in February 2006 on the development of a new fisheries management plan for the Northwest Atlantic Fisheries Organization (NAFO) Sub-Area Zero for Greenland halibut (turbot). Over 70 individuals from Nunavut, Quebec, Newfoundland and Labrador, and Nova Scotia attended the consultations, including representatives from NWMB, the HTOs, NTI and industry. It is anticipated that the management plan will be completed by the end of 2006.

The ninth meeting of the Canada/Greenland Joint Commission on Conservation and Management of Narwhal and Beluga (JCNB) was held in Nuuk Greenland in May 2004. DFO staff from Iqaluit, Ottawa, and Winnipeg attended the meeting along with a hunter from Arctic Bay and representatives of NWMB and NTI.

A joint meeting of the North Atlantic Marine Mammal Commission (NAMMCO) Scientific Committee Working Group on the Population Status of Narwhal and Beluga in the North

Atlantic and the Scientific Working Group of the Canada/Greenland Joint Commission on Conservation and Management of Narwhal and Beluga (JCNB) was also held in Nuuk, Greenland in October 2005. DFO staff from Iqaluit, Ottawa, Winnipeg, St. John's and Mont Joli attended the meeting, along with representatives of NWMB and NTI. Both meetings were held in an open and cooperative manner. These events continue to show positive bilateral activity.

9.4.4 Habitat Protection

DFO worked with partners and stakeholders, including IPGs, Designated Inuit Organizations (DIOs), representatives of industry, and territorial and federal governments to fulfil its habitat protection mandate. DFO works within the NIRB review process and in consortium with proponents to address concerns related to fish habitat.

Several environmental assessments have been completed in Nunavut, and others are on-going, relating to potential diamond and gold development, a major port and road project, the DEW Line cleanup, and other municipal infrastructure projects.

On July 20, 2004 the Nunavut Impact Review Board (NIRB) issued a Project Certificate for the Jericho Diamond Mine (Tahera Diamond Corp.), which allowed the project to proceed to the regulatory phase. Following final hearings, the NWB issued a water licence in December 2004. After finalization of details on the proponent's "No Net Loss" plan, DFO issued a Fisheries Act Subsection 35(2) Authorization on April 15, 2005. Construction is nearing completion at the site and full production is anticipated to begin in summer 2006.

NIRB final hearings were held on the Doris North Gold Project (Miramar Hope Bay Limited) on July 11-16, 2004. In August 2004, NIRB released its final report recommending that the project not proceed; insufficient information had been provided by the proponent to allow NIRB to fully assess the potential adverse environmental impacts of the project. The Minister of Indian and Northern Affairs concurred with the NIRB recommendation that the project not proceed until areas deficient in information could be addressed. A new draft Environmental Impact Statement (EIS) was submitted by Miramar Hope Bay Limited in June 2005. Final hearings were held on the new draft EIS in January and February 2006 in Cambridge Bay. Following the hearings, a NIRB final hearing report was sent to the Minister of INAC on March 6, 2006 recommending the project proceed to the regulatory phase. If the INAC Minister approves the report, a project certificate will be issued and the project will proceed through the regulatory approvals phase.

DFO participated in NIRB project scoping meetings held in Cambridge Bay and Yellowknife in June 2004 regarding the Bathurst Inlet Port and Road. This project is a joint venture corporation between the Kitikmeot Corporation and Nuna Logistics Limited. Guidelines to assist the proponent in the development of their Environmental Impact Statement were released in final form in December of 2004. Potential fish habitat related impacts of the project include the destruction of fish habitat resulting from construction of a wharf to handle 50,000 tonne ice-class vessels, and multiple crossings of fish bearing streams along the road alignment.

DFO also participated in NIRB technical meetings and a pre-hearing conference in June 2005 for the Meadowbank Gold Project (Cumberland Resources Ltd.). The proponent submitted a draft EIS in January 2005. Final hearings were held in the communities of Baker Lake, Chesterfield Inlet and Rankin Inlet between March 27 and March 31, 2006. The NIRB decided to leave the record open following the hearings in order to allow for the proponent to address outstanding concerns and questions in three general areas of the EIS. Upon receipt of this information, the NIRB will provide further direction on how to proceed with the review of this file.

DFO continues to work closely with communities, NIRB, and the Nunavut Water Board on project assessments. These assessments include DEW Line site clean-ups and various municipal infrastructure and development projects.

9.4.5 Inuit Employment

DFO remains committed to fulfilling the goal of representative Inuit employment, both within the Department and through participation with the Nunavut Federal Council. DFO has worked cooperatively with other federal departments to create an Umbrella Inuit Employment Plan. Approximately 36 percent of employees within DFO in Nunavut were beneficiaries in 2004/05 and approximately 27 percent were beneficiaries in 2005/06.

9.4.6 Oceans Management

Following a 2003/04 departmental review, it was decided to focus Oceans Management work in one Arctic area. Work on projects in the Western Arctic were more advanced and deemed to be of higher priority, especially in light of the potential oil and gas development in the Mackenzie Delta. As a result, integrated oceans management planning work in the Central and Eastern Arctic ended as of March 31, 2004 and the focus shifted to the Western Arctic.

In the past five years Oceans Management staff in the Eastern Arctic Area started two ocean management planning processes in Nunavut. The first, a working group, began to plan integrated management processes for the Hudson Bay in the Kivalliq Region. The second ocean management process produced a marine-issues scan of the Baffin Region. The Hudson Bay Ocean Working Group requested a summary of the traditional and scientific knowledge of Hudson Bay. This document was made available in 2005. DFO staff will continue to emphasize the importance of Nunavut's coastal and marine waters to Canada's marine ecosystems at every opportunity.

DFO is aware of ongoing issues and concerns regarding the oceans capacity in Nunavut, and options for addressing these concerns may be included in further development of the Oceans Action Plan. In preparation for the Coastal Zone Canada conference to be held in Tuktoyaktuk in August 2006, consultations on oceans issues were undertaken in five Nunavut communities late in 2005. The consultations will contribute to the conference sessions on the well-being of Arctic coastal communities. It is anticipated that over 30 participants from across Nunavut will attend the conference.

9.4.7 Partnerships

The work of DFO in Nunavut would be very difficult without a number of partnerships. Community-Based Management would be impossible without the partnership of the HTOs in the participating communities and the NWMB and NTI in developing and implementing the programs. DFO relies heavily on the HTOs in each community for reporting of harvest information.

DFO participated when appropriate in meetings of the Nunavut Fisheries Working Group (NFWG), an informal working group made up of senior representatives from NWMB, NTI and the GN Fisheries and Sealing Division. Territorial Government Wildlife Officers, who are present in every community in Nunavut, provided on-site assistance and information to DFO. DFO Habitat staff worked with other Federal Departments to ensure a united and efficient Federal approach to reviews of development projects in Nunavut. DFO also shared library resource material with the NWMB, NRI, Nunavut Department of the Environment, and the Canadian Wildlife Service (CWS) through the Nunavut Wildlife Resource Centres Coalition (NWRCC). A web site was established for the NWRCC in 2004 to allow greater public access to these unique resources (www.nwrcc.ca).

In 2005, DFO established a partnership with the newly created Nunavut Inuit Wildlife Secretariat, which assumed an administrative and coordinating role with the HTOs and RWOs. The Wildlife Secretariat is in the process of hiring one or more liaison officers in each of the three regions of Nunavut, which should reinforce and enhance DFO's communication links with communities.

DFO continued to build on these and other partnerships and worked towards identifying new partnerships for the future.

It is anticipated that there will be greater opportunities to build partnerships within Nunavut, within Canada, and internationally as preparations for the International Polar Year gain momentum. These partnerships are likely to touch on virtually every aspect of DFO's work in Nunavut.

9.4.8 Research

In the 2004/05 fiscal year the Nunavut Implementation Fund contributed a total of \$351,600 for 18 research projects in the NSA. In the 2005/06 fiscal year the Implementation Fund approved approximately \$350,000 for 15 research projects in the Settlement Area. These projects addressed key research issues on a range of species including Arctic charr, seals, bowhead and beluga whales, narwhals, and walrus.

Data collection and research was carried out by DFO researchers in cooperation with local hunters, and analyzed in the Department's research facility in Winnipeg (the Freshwater Institute). Several of these projects were co-funded by other organizations, most notably the NWMB. DFO involved communities in project development approval and used community

resources where available. Project proposals for 2006/07 Nunavut Implementation Funding were reviewed at the end of 2005, at which time \$354,000 was approved for 15 projects in 2006/07. It is anticipated that, in preparation for the upcoming International Polar Year, there will be greater interest in, and opportunities for, Arctic research initiatives.

9.5 Department of Canadian Heritage

The Department of Canadian Heritage (PCH) was significantly involved in Nunavut through a variety of policy, program and special initiatives during the reporting period.

9.5.1 Policy Review Process

During the 2004/05 fiscal year, Inuit beneficiaries and organizations were invited to participate in a range of departmental program consultations regarding social and cultural programs in the NSA. The approach was to amalgamate 13 Aboriginal programs administered by PCH into one program, and to undertake evaluations, audits, retrospective studies, and environmental scanning related to each program. Clients were consulted in order to ensure relevance in the program area and input was gathered for the future development of the program. These consultations continued throughout the reporting period.

9.5.2 Inuit Language Programs

Discussions were held around the issue of language, specifically the Canada-Nunavut Language Accords and the Aboriginal Language and Culture Center Consultation.

In the 2004/05 and 2005/06 fiscal years, PCH consulted with the GN Department of Culture, Language, Elders and Youth (CLEY) on the delivery of Inuktitut language funds for the Territory, with the intent of achieving complementarity between Language Accord monies and the Aboriginal Language Initiative (ALI), both Inuit-specific and targeted for communities.

An agreement was signed in 2004-05 and again in 2005-06 to establish a framework for cooperation between Canada and Nunavut with respect to protecting the cultural identity of Inuit through the recognition, revitalization, preservation, use and development of the Inuit language. The government services/language issue remains a priority intergovernmental file for PCH.

The Aboriginal Language and Culture Consultations (ALCC) during the reporting period were an important part of the work of the Task Force to review Aboriginal Languages and Cultures, which was established by the Minister of Canadian Heritage in 2002. In July 2004, consultations with over 30 key Inuit beneficiaries were held to help guide policy development for the renewal of federal funding for Inuktitut and Aboriginal language policy. This initiative also included First Nations, Inuit and Métis experts through an Aboriginal Circle of Experts. Principles and protocols were developed by this group which later guided the process. The final Foundational Report on the ALCC recommendations was presented to the Minister on June 29, 2005. The recommendations are currently guiding the review of PCH's language program.

According to the Berger Report, language investments in education and key institutions are currently the number one policy and funding gap. Berger's recommendation that a minimum investment of \$20 million per year be made in federal funding for education and language support calls for an expansion of federal Aboriginal policy on languages. Many of the ALCC recommendations also expand current federal policy and funding instruments.

9.5.3 Cultural Heritage Centers

The GN released its Final Report relating to a proposed Nunavut Heritage Centre in 2003 and met with the Deputy Minister and Assistant Deputy Minister of PCH to discuss the project. These discussions between the GN, the Inuit Heritage Trust (IHT), and PCH continued throughout the reporting period. One challenge is that the budget being proposed for Canadian Heritage's portion of the development is more than the entire national budget of PCH's only capital program, Cultural Spaces Canada. PCH has no direct obligation under the NLCA to fund such a centre, but discussions continue to explore potential measures.

Further discussions took place during the reporting period around the potential for the Iqaluit Arts and Cultural Centre, an arts presentation facility which could potentially be conjoined with the Nunavut Heritage Centre. Present estimates for the facility are approximately \$20 million.

9.5.4 PCH Funding

A total of \$9,289,147 was spent on all PCH programs in the NSA in 2004/05. An additional \$6,178,473 was spent in 2005/06. Total funding over the reporting period for social and cultural issues equalled almost \$15.5 million.

9.6 Human Resources and Social Development Canada

Human Resources Development Canada (HRDC) became two departments on December 12, 2003; Human Resources and Skills Development Canada (HRSDC), and Social Development Canada (SDC). The two departments were once again combined in December of 2005 with the creation of Human Resources and Social Development Canada (HRSDC). The delivery arm for HRSDC is Service Canada (SC). SC's mandate as a delivery agent for HRSDC and numerous other departments has changed the mandate of the Department and its activities in the territory tremendously over the past year. SC has three offices in Nunavut, with plans to open another three over the next several years dependent on available office space and housing in the designated communities.

During the upcoming year HRSDC/SC will update the information contained in the departmental annex to the Federal Inuit Employment Plan to reflect the changing direction of the Department. Most of the information contained in the Annex continues to be relevant although plans for expansion and increased hiring are not outlined and these new plans will now have to be factored in.

Data collected in 2002 set the baseline for Inuit employment in Nunavut at 52 percent. Targets are 61 percent for 2005 and 70 percent for 2007. These targets are still relevant and the Department will make every effort to meet them. HRSDC's current Inuit employment rate is 60 percent, a slight decrease from 2005 due to the departure of two Inuit employees in recent weeks.

9.6.1 Pre Employment

In the area of pre employment, the Department committed to creating an Entry Level Training Position. This position was created in January 2004 and the initial one-year term was extended. The intern has received training in the Employment Insurance Front End area and Income Security programs, which she has shown a particular interest in. Since the last report, the intern has become an indeterminate employee of the Department and has moved up two levels. This internship is considered to have been very successful.

9.6.2 Recruitment

Hiring practices have been modified to better accommodate northern realities. Every effort was made to see that positions being advertised appear in the appropriate languages in all Nunavut communities. Orientation sessions were set up prior to interviews so candidates were as comfortable as possible with the process. All boards included community members fluent in the appropriate dialect so candidates could respond to questions in Inuktitut if they wished. The new Public Service Employment Act, which came into effect January 1 2006, was specifically designed to promote hiring on the principle of merit. This, by definition, means "the right person in the right job at the right time". The policy has been shown to be helpful in increasing Inuit employment levels.

9.6.3 Employee Retention

Housing policy was re-evaluated to better address the needs of local hires. All staff who did not own homes and requested housing were eligible for subsidized federal housing units. Alternate work arrangements were encouraged so staff could take part in traditional activities on the land. Inuit employees were also encouraged to organize Inuit Qaujimajatuqangit (IQ) staff days exploring and celebrating Inuit culture, and participated when possible in activities facilitated through other departments.

The Department also participated in the Training and Development Committee of the Nunavut Federal Council, which has done a considerable amount of work bringing training opportunities to Nunavut.

9.6.4 Contracting Activities

The local offices of HRSDC/SC are not responsible for contracting services. Purchases were limited to small office supplies and travel expenses. In both cases every attempt was made to deal with local service providers.

9.6.5 Challenges and Growth Areas

The Department's mandate in the territory has changed considerably during the reporting period. This has put staff, both Inuit and non-Inuit, under considerable pressure to travel to facilitate training as well as the other added outreach activities that are now a part of service delivery in Nunavut. This new condition of employment with the Department has led to the departure of a few employees who were not prepared to travel. All future hires will be made aware that ability to travel is now a requirement. The opening of new offices in the territory will reduce the number of communities requiring visits and increase the number of employees available to travel.

The issue surrounding completion of the Inuit Labour Force Analysis has been addressed in the short term by signing an agreement with the Bureau of Statistics. The Bureau supports activities related to the completion of the ILFA.

9.7 Indian Affairs and Northern Development

9.7.1 Land Administration

Pursuant to Article 5, Part 8 of the NLCA, Land Administration provided DIOs with the right of first refusal before processing land applications for new sports or naturalist lodges in the NSA. As required under Article 7, Crown Lands were made available to clients without application fee for outpost camps that were approved by the local HTO and screened by the NIRB.

In accordance with Article 12, Land Administration forwarded applications for 49 crown land dispositions, 69 land use permits and 92 quarry permits to the NIRB for review and screening. Lands Administration also participated in two Part V reviews by NIRB for Miramar Hope Bay Ltd. and Cumberland Resources Ltd.

During the reporting period Lands Administration worked jointly with the NWB to review and approve the closure and reclamation plan for Polaris Mine. The cooperation demonstrated by the NWB and its staff was encouraging. Lands Administration also worked in cooperation with the NWB to review the abandonment and reclamation plan for the Nanisivik mine. Lands Administration and the NIRB have begun the preliminary stages of a joint review of the Abandonment and Restoration Plan for the tailings containment area at the Lupin Mine.

As per Article 19, Land Administration reviewed legal survey plans of selected parcels of Inuit-Owned Land. There is a requirement that all such surveys must be approved on behalf of the Minister. In that regard, Land Administration received and signed off approximately 600 survey plans. There are a number of plans outstanding that have yet to be received and will require review and approval. In February 2006, Lands Administration participated in a workshop with NTI, NRCan and the RIAs to discuss obligations under the NLCA.

Pursuant to Article 19.8.17 and 19.8.18, the Mining Recorder is responsible for resolving any dispute as described according to the provisions of the Canada Mining Regulations in existence

at the date of ratification of the Agreement. To date, no disputes have been registered with the Mining Recorder.

Under Article 21.7.2 the Mining Recorder's Office pays quarterly lease rental payments to NTI on grand-fathered subsurface rights, and administers these third party rights that were acquired prior to the date of ratification of the Agreement. In 2005/06 there were approximately 60 leases of this type administered by the Mining Recorder's Office

9.7.2 Environment Division

9.7.2.1 Nunavut Legislative Working Group

The Department participated in the Legislative Working Group in drafting legislation for both Articles 11 and 12 of the NLCA. The drafting instructions were developed but legislative drafting continues to await Cabinet authorization to proceed.

9.7.2.2 Land Use Planning

The Environment Division commissioned a paper to assist in developing a departmental position on Article 11.4.1(a) of the NLCA as it relates to establishing: "*broad planning policies, objectives, and goals for the Nunavut Settlement Area in conjunction with Government.*" It has been determined that these broad planning policies, objectives, and goals can be best established through a working group forum involving Government, NPC, and NTI. This work is schedule to begin in June 2006.

The West Kitikmeot Land Use Plan (LUP), as referenced in the Report for 2001-2004, was not submitted for approval. The development of this and of any other LUP hinges on the successful implementation of Article 11.4.1(a).

9.7.2.3 Development Project Impact Assessment

The Environment Division coordinated the Department's intervention and participation in two Part V Environmental Reviews under the NLCA. The two projects included the Meadowbank Gold Project and the Doris North Gold Project. This work entailed technical meetings, a pre-hearing conference, and final environmental hearings.

9.7.2.4 Trans-Boundary Environmental Impact Agreements

No work has been done to date on the negotiation of Trans-Boundary Environmental Impact Agreements (under Article 12.11.2 of the NLCA). The Mackenzie Valley Environmental Impact Review Board requested to join NIRB's panel in the review of the Bathurst Inlet Port and Road project.

The negotiation of transboundary agreements will need to be addressed in relation to developments such as Quebec's Eastmain 1-A and Rupert hydro-electrical projects, and the proposed Manitoba-Nunavut all-weather road.

9.7.2.5 Nunavut General Monitoring Program

In 2004-2005, a discussion document outlined possible management options and the opinions of various stakeholders regarding the Nunavut General Monitoring Plan related to Article 12.7.6 of

the NLCA. This document also included the obligations outlined in the NLCA and possible options for implementing these for general monitoring. This subject will remain an area for discussion with our partners.

Further to Thomas Berger's Interim Conciliator's Report, the NRO has initiated an internal working group for the purpose of moving forward on general monitoring.

9.7.3 Minerals Division

With respect to Article 19.9.1 of the NLCA, the Minerals division is responsible for notifying DIOs of the discovery of any deposits of carving stone on Crown lands. During the period under review, no carving stone discoveries were reported.

Staff visited active exploration and mining projects, and conducted research on mineral occurrences and deposits.

Activities in conjunction with other regional office sections during the reporting period included enforcement of the Canada Mining Regulations (with Land Administration), review of proposed land use plans (Environment and Contaminants lead) and environmental assessment for the proposed Jericho, Doris North and Meadowbank mine, as well as the Bathurst Inlet Road and Port project (Environment & Contaminants lead).

The Mineral Resources staff also worked with our partners NTI and the GN's ED&T to promote Nunavut's mineral potential at mining conferences and through publications.

9.7.4 Water Management

The Water Resources Division provided support in terms of reviews and interventions to environmental assessments, and licensing and implementation processes for municipal, mineral exploration and mining activities. These activities included the review of closure plans for Nanisivik and Polaris mines, the construction and start-up of the Jericho diamond mine, and the environmental assessments of the Doris North and Meadowbank mines. Jericho began operation in March 2006. A strong working relationship was maintained with the NWB.

The Water Resources Division sampled water quality at four DEW Line sites, and at sites around the city of Iqaluit. Through a cooperative agreement with the KivIA, baseline water sampling was undertaken in the Chesterfield Inlet area of the Kivalliq region. Through a Shared Services Agreement, baseline water quality samples and meteorological data were also collected by INAC-NWT at trans-boundary sites, and near areas of existing and potential mineral development. INAC-NWT, with support from the NRO Division, funded EC to monitor water quantity in Nunavut.

9.7.5 Contaminated Sites

For the purpose of maximizing opportunities for Inuit and Northern firms in Nunavut the Contaminated Sites Program undertook the following project-specific activities.

9.7.5.1 FOX-C

An orientation session on how to do business with the Government of Canada was held in Iqaluit. This resulted in the Inuit-owned Qikiqtaaluk Corporation securing a \$4.9 million camp construction contract and a \$12 million remediation contract that guaranteed an Inuit employment rate of 88 percent.

Community consultation in both Qikiqtarjuaq and Clyde River resulted in those communities benefiting from the use of local facilities and services. During the 2005 field program, local residents were able to gain employment and training in a number of areas such as sharing local knowledge, translation services, guide services, camp construction, carpentry, and equipment operation.

INAC's commitment to providing opportunities for Nunavummiut was reflected in its selection of contractors and restricting bidding to Aboriginal-owned firms. The bid evaluation process for the reclamation work gave extra points to proposals that demonstrated a commitment toward the provisions of the NLCA.

9.7.5.2 CAM-F

The government business orientation session held in Iqaluit also resulted in Inuit-owned Mikim Contracting Ltd. securing a \$4.5 million camp construction contract. Biogenié was awarded a \$10.4 million remediation work contract and guaranteed an Inuit employment rate of 63 percent.

Community consultation in both Igloolik and Hall Beach resulted in those communities benefiting from the use of local facilities and services. A site trip required the rental of local transportation equipment. Local residents were able to gain employment and training in a number of areas including sharing local knowledge of the site, translation services, guide services, camp construction, carpentry, and heavy equipment operation.

9.7.5.3 CAM-D

INAC strove to keep residents informed on cleanup plans for the CAM-D site, and sought their input on concerns. Community consultation meetings in Gjoa Haven, Kugaaruk and Taloyoak were conducted in the spring of 2006.

During the 2005 field program, use of the community facilities and services, and employment opportunities provided benefits to the community. INAC will continue to provide opportunities for Nunavummiut through the contractor selection process.

9.7.5.4 Radio Island

Consultation meetings were held in Iqaluit and Kimmirut in December 2005 to discuss the draft Remedial Action Plan for the Radio Island site. Based on the comments from the communities, the Remedial Action Plan was finalized and submitted to NIRB and NWB for review. Following

approval of the Remedial Action Plan, it is anticipated that the site will undergo remediation in the summer of 2006.

9.7.5.5 Resolution Island

INAC, in cooperation with Qikiqtaaluk Corporation, was able to maximize employment opportunities for residents of Iqaluit, Kimmirut and Pangnirtung. Over 85 percent of the workers on the Resolution Island project are Inuit, with 65 percent coming from Iqaluit, and the remaining 35 percent from Kimmirut, Pangnirtung, Resolute Bay and other communities. Sixty-two workers, 95 per cent of whom were Inuit, were employed throughout the 2005 field season.

9.7.5.6 Robert's Bay Mine Site

During the 2005 field program, use of the community facilities and services, and employment opportunities provided benefits to the community.

9.7.5.7 Agreement with NTI

INAC is currently working with NTI to develop an agreement for the remediation of DEW Line Sites under INAC's control.

9.7.6 Corporate Services

9.7.6.1 Article 23.4.1-2 - Inuit Employment Plan

The Nunavut Regional Office (NRO) has made progress on increasing the representation rate of Inuit employment during the reporting period. As of March 31, 2006 the representation rate stood at 31 percent, which was 9 percent higher than that of May 2004. However, this is 7 percent lower than the previously targeted rate published in the 2002 Inuit Employment Plan. This variance is due primarily to a 25 percent increase in the total number of approved NRO positions from 85 to 107. Many of these new postings are in the Scientific & Professional and Technical Categories. Traditionally, the pools of qualified Inuit available in these two categories have been quite limited.

During the reporting period NRO created annual Inuit Employment Plans that set out specific goals and commitments in promoting the NRO as an employer of choice, identifying impediments, barriers and policies affecting Inuit employment; fostering an environment that supports Inuit culture; and providing Inuit employees with training and development opportunities. The overall goal has been to increase the Inuit representation over a period of five years.

Examples of initiatives in this area are the NRO Inuit Summer Student Initiative and a Nunavut specific orientation CD for new employees at the regional office.

The Summer Student Initiative is available to all NLCA beneficiaries who are in high school, college or university and returning to school in the fall. The NRO is committed to offering valuable learning assignments that will assist students in making the transition from their community to post-secondary institutions, and then the workforce.

The Nunavut-specific orientation CD was produced as a complement to INAC's departmental employee orientation CD-ROM to introduce new staff to the Public Service of Canada and INAC, and to welcome staff to the unique cultural environment of Nunavut and our regional office.

Two initiatives are currently underway to increase the Inuit representation rate. These initiatives are: (1) to encourage managers to give hiring preference to NLCA beneficiaries based on operational requirements under the new Public Service Employment Act; and (2) continuation of the Summer Student Initiative by hiring 5-6 Inuit summer students each year so they can learn more about the Department and consider full time opportunities with INAC in the future. There are currently three NLCA beneficiaries working full time in NRO who were previously recruited under the Summer Student Initiative.

9.7.6.2 Article 24.3.1-5 - Government Contracts

The NRO is an active member of the federal Article 24 working group, and Inuit firms are invited and given opportunity to bid on all NRO contracts.

9.7.7 Northern Affairs Program

Work on the development of the draft Nunavut Resource Management Act (NRMA), which is an obligation under Article 10 of the NLCA, continued on two parallel paths during the reporting period.

In one stream, work continued on the development of the policy framework in support of eventual legislation. The NRMA Working Group met on several occasions in 2005/06, including meetings in Edmonton and Iqaluit. The result of this work was that two "Tracking Documents", one for NIRB and the other for the NPC, are nearly complete. At the time of this report only a few issues still need to be discussed. These Tracking Documents will provide drafters with comprehensive background and information supporting the Drafting Instructions for the development of the legislation.

A legal sub-committee was also struck, with the mandate to meet as a smaller group to discuss issues of a legal or technical nature. This group is to meet shortly after the end of fiscal year 2005/06.

In the late fall of 2005, Canada began preliminary or anticipatory drafting of the bill itself, and a first draft is nearing completion.

In a second stream, the Department undertook a parallel process to engage federal departments on the policy work necessary for implementing the NRMA Act. This process was ongoing at the end of 2005/06.

9.8 Natural Resources Canada – Legal Surveys Division

9.8.1 Report on Implementation Activities for NLCA

Article 19.8.8 states that the boundaries of Inuit Owned Lands may be surveyed as described in the Descriptive Map Plans. This involved the survey and demarcation of approximately 1155 Inuit Owned Lands parcels, 12 jointly owned lands parcels, and all crown land areas excluded from these parcels. It also involves the preparation of plans and delivery of such to the Registrar of Land Titles.

9.8.2 Survey Projects

For the Nunavut Land Claims program all parcels of land have had their boundaries established to isolated boundary standards. Plans were prepared, which were recorded in the Canada Lands Surveys Records (CLSR), and delivered to the Registrar of Land Titles as each plan was ratified.

9.8.3 Inuit Involvement

Legal Surveys Division required mandatory Inuit involvement through its survey contracts. This normally resulted in the provision of services, employment, and training for individuals and businesses from the community where the project was located, and for other registered Inuit businesses throughout Nunavut.

9.8.4 Plan Ratification Process

Plans were recorded in the CLSR and the Land Titles Office where appropriate. Some plans remain at the final review stage for ratification and registration, but the field work portion for all parcels was completed.

The large number of plans that required processing through the different ratification stages and subsequent registration at the Land Titles Office created a major challenge to the regional entities involved in this process.

9.9 Parks Canada Agency

The Nunavut Field Unit of Parks Canada manages four national parks in Nunavut: Auyuittuq, Quttinirpaaq, Sirmilik and Ukkusiksalik. The Field Unit office is located in Iqaluit, and the individual parks are operated from smaller offices (Auyuittuq NP from Pangnirtung and Qikiqtarjuaq, Quttinirpaaq NP from Ellesmere Island and Iqaluit, and Sirmilik NP from Pond Inlet. Ukkusiksalik NP is being managed from temporary office spaces set up in the Hamlet building in Repulse Bay. An operations building will be built in the community in the near future.

9.9.1 Joint Park Management Committees

The Joint Park Management Committees (JPMCs) of Sirmilik, Auyuittuq and Quittinirpaaq held meetings independently and jointly in 2004/05. Bylaws were approved at the Tri-JPMC meeting in November 2004. Research permits for all parks for 2005 were approved by teleconference. Some appointments ended in August 2005, and the new appointments process was started.

The JPMCs held a meeting with all JPMC members in February 2006. Research permits for all Baffin parks for 2006 were approved by teleconference. Parks Canada and the QIA appointed new members for Auyuittuq and Sirmilik. Their terms will expire in three years. Discussions are ongoing for the JPMC Secretariat position.

9.9.2 Ukkusiksalik National Park

The KivIA, the GN and Parks Canada reached agreement on an IIBA for Ukkusiksalik National Park in 2003. INAC and the KivIA started, but did not complete the IOL land exchange within Ukkusiksalik National Park. This process has delayed the formal scheduling of the park in legislation.

The federal government and the KivIA finalized the appointments for the Ukkusiksalik Park Management Committee. Both parties appointed three members. Training was held in Repulse Bay in November 2005. The next meeting is scheduled for April 2006.

9.9.2.1 Office Establishment

The IIBA for Ukkusiksalik stipulates the establishment of a temporary office in Repulse Bay. Two office spaces at the new Hamlet office were obtained, and plans are underway for the design and construction of the UNP park operations building. Parks Canada is also looking at the housing situation in Repulse for the staff that will be located there.

9.9.2.2 Staffing

Hiring for the Park Manager position was completed during the 2005/06 fiscal year. The first positions scheduled for staffing in 2006/07 are the Warden II and Administrative Assistant positions.

9.9.2.3 Oral History

Parks Canada interviewed an elder in Rankin Inlet on the Hudson's Bay post in Wager Bay. This oral history is important to tell the public and people of Nunavut about the stories of Ukkusiksalik National Park.

9.9.2.4 Community Consultations – Archaeology/ Resource Conservation

Community consultations were completed prior to the work Parks Canada carried out during the summer of 2005 in Wager Bay. These consultations were undertaken in Coral Harbour, Repulse Bay, Baker Lake, Rankin Inlet and Chesterfield. Issues raised during the consultations related to the Cultural Resources Inventory, archaeology work, and natural resource conservation. The next community consultation meetings are scheduled for fall 2006.

On-going community consultation will occur until the office is established and hiring has been completed.

9.9.2.5 *Emergency Kill of Polar Bears*

This type of agreement will be unique in Nunavut and in Canada. KivIA, GN, and Parks Canada are preparing to sign a Memorandum of Understanding to address the emergency kill issue of polar bears in Wager Bay.

9.9.3 Bathurst Inlet

Parks Canada is considering the possibility of establishing a new national park at Bathurst Island. A feasibility study was undertaken, and the next step will be consultations with QIA to prepare for the negotiation of an IIBA.

9.9.4 Sites of Significant Cultural Importance

9.9.4.1 *Historic Sites*

Discussions that began in the 2004/05 fiscal year continued between NTI and Parks Canada towards negotiating an IIBA for National Historic Sites. A number of meetings were held to provide additional information about the National Historic Sites Program in Nunavut, and several draft articles were exchanged as a basis for discussion and negotiation. The parties are now working to clarify the scope of the IIBA and funding for implementation.

9.9.4.2 *World Heritage Sites*

Discussions began between QIA and Parks Canada towards negotiation of an IIBA for the Quttinirpaaq World Heritage Site nomination. Initial background information has been exchanged.

9.9.5 Communication and Promotion

Parks Canada published park information brochures, orientation packages, web site information, displays and two videos in French, English and Inuktitut. The Parks Canada website has been revised to support Inuktitut versions of all materials.

In cooperation with the Government of Nunavut, Parks Canada released a video called “Parnasiaqtiarniq: Safe travel in Nunavut”. Its purpose is to teach visitors the basics of safe travel in the arctic. It was distributed around the world as a DVD and a VHS tape in seven languages, including Inuktitut.

A video entitled “Polar Bears: A Guide to safety” is being completed in English, French and Inuktitut. The video offers practical advice on human safety around polar bears, and was produced by Wild Eye Productions with support from EC, Parks Canada and INAC. The content was developed over several years in collaboration with a variety of polar bear experts from communities across Nunavut and the NWT.

A Vacation Planning brochure was completed in consultation with the Joint Park Management Committees (JPMCs). It is available in three languages and highlights each of the four national parks in Nunavut. It was designed to give potential visitors enough information to begin planning a trip to one of Nunavut's national park destinations. In October 2005 it was launched on the Parks Canada website in French and English. An Inuktitut version is available as a downloadable PDF document.

The Nunavut section of the Parks Canada web site was increased from four pages (one for each park) to over 150 pages of information. The information includes sections on natural history, culture, park use, park management, visitor information, safe travel advice, and park regulations. The pages are currently in French and English, and the Inuktitut will soon be available as a downloadable PDF. The Parks Canada website is not technically able to support syllabic characters, and so can only support Inuktitut text as a downloadable PDF.

The Auyuittuq National Park Visitor Centre in Pangnirtung was renovated using seasons of Inuit harvest as a major design element. Ten panels of interpretive maps, images and text are presented in Inuktitut, French, and English, reflecting the changes in the territory and its national parks over the last 10 years. A new mural was commissioned from local artists to showcase the park and the local talent. A new theatre allowed for effective presentation of video, computer and slide presentations.

The park interpretive panels at the Nattinnak Centre in Pond Inlet were updated to better present Sirmilik National Park. The panels include a large map of the park and information on the park and the cultural and natural heritage that it protects. Text on all these items was printed in all three official languages.

Pre-trip planning packages for Auyuittuq, Sirmilik and Quttinirpaaq were refined. These packages are sent electronically or mailed to any potential visitor who inquires about a visit to any of these parks. They include safety precautions, equipment selection guidelines, activity recommendations, and planning information. This package will be available on-line in the near future. These packages are about 20 pages in length and are available in English, French and Inuktitut.

Work on an interpretive brochure for Sirmilik National Park is being completed. The brochure includes the first widely distributed map showing the park borders, important park and visitor information, and a large illustration of a seasonal harvest cycle featuring the six seasons that are common to Pond Inlet and Arctic Bay. Extensive consultation included a review of historical records, and interviews with elders, hunters and Joint Park Management Committee members from both communities. Uqsiq Communications, an Inuit-owned firm, was responsible for the illustration of the brochure. There will be a separate brochure available for all three official languages.

A new parks exhibit in the Iqaluit Airport is being completed. This exhibit is a joint venture between Parks Canada and Mirnguiqsirviit, Nunavut Parks. It features descriptions of the two

different park systems and a large map of Nunavut with a list of all of the conservation areas. Ayaya Designs, an Inuit-owned firm, coordinated the exhibit's design and construction.

9.9.6 Management Planning (Section 8.4.13 of NLCA)

Park Planning Teams worked closely with the JPMCs for Quttinirpaaq and Auyuittuq in the development of the management plans.

The Quttinirpaaq Joint Park Management Committee approved the Final Draft Management Plan for Quttinirpaaq in May 2005. The committee submitted the plan to the NWMB, which approved the wildlife habitat sections of the plan during their December 2005 Board meeting (IIBA Section 5.3.35; NLCA Section 5.2.3 c & d, & 5.3.16 to 5.3.23). The Quttinirpaaq management plan is currently moving through Parks Canada's approval process; it is anticipated the plan will be presented to Cabinet during the winter of 2006/07.

The Auyuittuq Management Plan was phased in over a longer period than originally anticipated to ensure that the Park Planning Team (PPT), the JPMC and other stakeholders were fully involved. PPT and JPMC planning meetings will renew in the fall of 2006, and public consultation of the plan is scheduled for early spring 2007.

All planning meetings were conducted in Inuktitut and English, and all materials for the meetings were produced in both languages.

9.9.7 Inuit Employment

Throughout fiscal year 2005/06 the Nunavut Field Unit continued its work towards achieving a representative level of Inuit employment through initiatives identified in their Inuit Employment Plan.

In the last year, all competitions either provided preference to NLCA beneficiaries, or were open only to NLCA beneficiaries. Posters and Statements of Qualification were made available in Inuktitut. When appropriate, training and experience were accepted as alternatives when candidates did not meet the formal educational requirements. Whenever possible, a beneficiary of the NLCA participated on interview panels. These beneficiary representatives have included Parks Canada staff, employees of DIOs, or members of the JPMCs.

As a result of these and other initiatives, many NLCA beneficiaries were hired by Parks Canada to fill roles in the agency.

In 2004/05 external competitions resulted in the hiring of qualified Inuit applicants for the positions of Executive Assistant, Cooperative Management Advisor, Coordinator of the Inuit Knowledge Project, and Patrol Persons. Internally, NLCA beneficiary staff members took on acting assignments at a higher level as the Senior Park Warden of Auyuittuq National Park and as the Manager of Ukkusiksalik National Park. In 2004/05, beneficiaries of the *Nunavut Land Claims Agreement* made up 51 percent of Nunavut Field Unit staff.

In 2005/06 external competitions resulted in the hiring of qualified Inuit applicants for the positions of Patrol Person, Communications Officer, and summer student positions. Internally, NLCA beneficiary staff members successfully competed for the positions of Field Unit Superintendent, Park Manager and Senior Park Warden. In the 2005/06 operating season, beneficiaries of the *Nunavut Land Claims Agreement* made up 47 percent of Nunavut Field Unit staff.

9.9.8 Inuit Knowledge Project

Funding for this project was approved by Parks Canada in June 2004. The project encompassed Auyuittuq, Sirmilik, and Ukkusiksalik National Parks, was coordinated by the Parks Canada Iqaluit Office, and supported by masters and PhD students from the University of Quebec, University of Manitoba and Memorial University.

In July 2005, after consultations with the Pond Inlet, Pangnirtung, and Qikiqtarjuaq Elders Committees, community working groups were established for Sirmilik and Auyuittuq National Parks. Each “Inuit Knowledge Working Group” was made up of elders, HTO and youth representatives, and met every six to eight weeks to set research priorities and to guide on-going Inuit knowledge research projects.

Work began with both the Pond Inlet and Auyuittuq Inuit Knowledge Working Groups on “Inuit Sea Ice Use” documentation projects, to be conducted over the next two to three years. It is expected that these projects will be approved sometime in the near future. Community researchers will then be hired to undertake the Inuit Sea Ice Use projects in Sirmilik and Auyuittuq National Parks. Training for these individuals will begin in the summer/early fall of 2006, with community interviews to begin in the fall of 2006.

9.9.9 Cultural Resources and Monitoring

In July 2004, Parks Canada extant recorders produced detailed survey documentation for the Wager Bay Hudson’s Bay Post in Ukkusiksalik National Park. This was the first step in evaluating the potential for stabilizing the post buildings and protecting them as cultural resources. In July 2005, a structural inspection was conducted of the three buildings to identify possible measures of stabilisation. At the same time, a cultural resource inventory and evaluation was carried out to document, inventory, and photograph the material on site. This was in preparation for the site clean-up and stabilisation of the buildings, a requirement of the IIBA.

Monitoring programs conducted at Quttinirpaaq in 2004/05 included excavation of the Thule site at Ruggles River. The site was threatened by erosion and high water levels, and had been partially excavated in the 1950s. Many artefacts were recovered and are being curated and analyzed. A preliminary report was completed. This project was a joint effort between Parks Canada and the GN’s Department of Culture Language Elders and Youth (CLEY).

In 2005/06 Quttinirpaaq programs included photographic and measurement monitoring of individual features and cultural resources at Kettle Lake, Blister Creek and Fort Conger to examine impacts from visitor activities and natural occurrences.

In 2004/05 Parks Canada, in cooperation with CLEY, also completed the Sirmilik National Park cultural resources survey. The survey focused on the northern Borden Peninsula, eastern shoreline of Bylot Island, and parts of Oliver Sound. There will be future detailed investigations of several sites in Sirmilik National Park.

9.9.10 Ecosystem Research and Monitoring

9.9.10.1 Ecosystem Monitoring

Parks Canada moved ahead in developing monitoring programs for Nunavut's national parks. This will significantly contribute to the NLCA obligations for ecological monitoring. Nunavut national parks are included in the Northern Bioregional Working Group. This group is working together to develop a comprehensive program for national parks in Nunavut, NWT and Yukon. New funding was made available by Parks Canada to support the initiative. The monitoring program must be complete by 2008.

Parks Canada sponsored numerous research projects during reporting period, which included:

Auyuittuq

- Marine survey – currently in Year 2.

Sirmilik

- Herbarium collection – completed in 2005/06;
- Vegetation Map – final report and maps completed in 2005/06;
- Goose Camp research program – ongoing.

Quttinirpaaq

- Biennial Muskox/Wildlife survey - completed in 2004/05;
- Peary caribou habitat and DNA study – preliminary information collected in 2004/05;
- Contaminants and remediation project – currently in Year 2;
- Lemming habitat quality study – currently in Year 1.

Ukkusiksalik

- Habitat mapping project for Kivalliq Region – assisted Government of Nunavut (DOE) with data collection in park area 2005/06;
- Herbarium collection – initiated in 2005/06;
- Polar bear research – developed agreement with the University of Alberta to conduct research beginning in 2006/07 fiscal year.

9.10 Public Works and Government Services Canada

9.10.1 Acquisitions and Activities in Nunavut

On February 21, 2005, PWGSC Western Region, under the Northern Contaminated Sites Group, signed an MOU with INAC to provide site investigation, project planning, specification development, procurement, project management, and administration services for various restoration and clean-up projects in Northern Canada. The agreement expires on March 31, 2010. There are approximately 20 former intermediate Distant Early Warning (DEW Line) sites across the arctic that will form part of this program. A number of abandoned gold, copper and silver mines in Nunavut and the NWT are also included.

PWGSC notified NTI and eight other Inuit organizations of opportunities to bid on government contracts for goods, services and construction destined for the NSA.

To support the objectives of Article 24 (Government Contracts), under the NLCA, PWGSC offered seminars to assist the Inuit firms of Nunavut in becoming familiar with bidding and contracting procedures. The Western Region's Northern Contaminated Sites Program established a good working relationship with the Economic Development Director at NTI, and participated in numerous meetings with NTI and other claimants' economic development officers from local communities.

Western Region's Environmental Services and Acquisitions staff, working in conjunction with INAC, also sponsored Procurement Training workshops. These included a MERX presentation, town hall meetings, local community information sessions, and bidders' conferences in the NSA. An example of this is an information session and bidders' conference that was held in Iqaluit in March 2005 to discuss remediation and the provision of camp support services at the Ekalugad Fjord (FOX-C) and Sarpca Lake (CAM-F) DEW Line sites. Sessions were also held in February 2006 for the former Radio Island Navigational Aid and Weather Station Site, all of which are located on Inuit Owned Lands. These sessions were well received by the Inuit firms and community representatives who attended.

As a result of de-bundling project requirements, small local firms were better able to compete. Three of the five contracts were awarded to Inuit-owned businesses from Iqaluit for an estimated \$20.6 million. The five contracts, representing a combined value of \$35.6 million, included an Aboriginal Benefits Plan to create approximately 90-95 employment opportunities for Inuit during the 2006/07 construction season, representing over 70 percent of the total number of employees working on these sites. The five contracts will also create approximately \$27 million in spin-off benefits for Inuit suppliers and local communities who provide goods and services in support of the clean-up work.

PWGSC provided assistance and Set-Up Information Seminars on the procurement process for Inuit firms in Nunavut. In response to one such request, PWGSC and Consulting and Audit Canada are developing a two-day training session that will be delivered in Iqaluit on the

government's contract audit requirements. A one-day general session will be open to the Inuit and small business community interested in future clean-up work. The second day will be a one-on-one session specifically for those Inuit-owned businesses who win the contracts.

PWGSC also assisted INAC with the development of Contaminated Site Procurement Strategy Procedures, generic and land claim-specific Aboriginal Benefits Plans, Aboriginal on-the-job apprenticeship training programs, and other initiatives under the Northern Contaminated Sites Program. These strategies will be applied to clean-up work in the NSA.

The Western Regional Office is currently preparing specifications and bid documents for three projects in the NSA that will be advertised on MERX. These are the clean-up of the abandoned Robert's Bay Mine (estimated at \$4 million), the Cape Christian Re-Fueling Site (estimated at \$7 million) and the construction of a new \$15-20 million RCMP Detachment in Iqaluit.

Whenever practical and consistent with sound procurement management, PWGSC included evaluation criteria in its bid documents to maximize socio-economic opportunities for Inuit firms in the NSA. PWGSC also provided information on government contracts awarded in the NSA.

10 Implementation Bodies

10.1 Nunavut Impact Review Board

10.1.1 Mandate

The Nunavut Impact Review Board (NIRB) is an environmental impact assessment agency established under Article 12 of the *Nunavut Land Claims Agreement* (NLCA) to determine whether development projects proposed for the Nunavut Settlement Area (NSA) should proceed, and if so, under what terms and conditions. The primary objectives of the NIRB are to protect and promote the existing and future well being of the residents and communities of the NSA, and to protect the ecosystem integrity of the settlement area. Proposals are submitted to the NIRB for review in terms of the potential impact the development may have on ecosystems and the general socio-economic well being of the NSA. The effect of the proposed development on other areas of Canada is also considered. NIRB then indicates to Indian and Northern Affairs Canada (INAC):

- Whether the project can be processed by regulatory agencies;
- Whether it requires an in-depth public review;
- Whether the proposal is insufficiently developed and should be returned for clarification;
or
- If the potential adverse impacts are unacceptable and the project should be modified or abandoned.

10.1.2 Projects Reviewed

A total of 266 projects were screened during the period covered by this report. In 2004/05, 126 project screenings were undertaken by the Board at a cost of \$83,179. In the 2005/06 fiscal year 140 project screenings were conducted at a cost of \$82,395. Many of these were large scale projects, and required more than one examination by the Board.

The Board does not have in-house technical expertise in all areas of its mandate, and retained the services of external consultants for a variety purposes including general or specialized environmental expertise, legal counsel, accounting services, interpreters/translators, information technology (IT) support, and other areas as needed.

10.1.3 Office Operations

A number of significant corporate changes occurred during the reporting period, the most notable of which was the relocation of the office to a new facility in July 2004. The new building is shared with the Nunavut Planning Commission (NPC). This new facility is larger than the old one, and will therefore be more expensive; it was designed to house nine employees with an upstairs boardroom. Given that NIRB now has 15 employees, the boardroom has been converted into cubicle office space. The space previously occupied by Nunavut Water Board (NWB)

personnel has been converted into a GIS facility. A new facility will be required to adequately address future workload needs.

In-house networking and the purchase of the scanner and printer workstation decreased the overall cost of fax and phone services.

Work continued on the peer-to-peer network system, and on the File Transfer Protocol (FTP) site for document sharing between NIRB, NWB, NPC, and other Inuit organizations.

10.1.4 PLANNER Project

In addition to these IT-related projects to enhance NIRB's efficiency, NIRB also participated in the development of the PLANNER software project in conjunction with the NPC. PLANNER was designed by NPC as a project specific application tool designed to provide a "one-window" approach to all planning activities in Nunavut. Although NIRB has agreed to make an annual contribution of \$25,000 to the project, only \$5,000 was contributed during the reporting period due to funding constraints.

10.1.5 Public Awareness

It is becoming increasingly important for NIRB to ensure that the public is aware of the mandate and activities of the organization. In order to adequately participate in the environmental assessment process, which Article 12 entitles Nunavummiut to do, beneficiaries need to understand how that process works. This means more public meetings, more newsletters, more promotional items, and more face-to-face contact. The Board encouraged this practice whenever possible. When staff members traveled to Nunavut communities for meetings, they conducted other meetings with the public and schools as time permitted.

10.1.6 General Budgetary Concerns

Although NIRB completed fiscal year 2004/05 slightly under budget due to budget items that were planned for but not implemented, NIRB had over-expenditures of \$154,431 in the 2005/06 fiscal year. This was primarily attributed to the hiring of additional staff and accruals of unused annual leave and lieu time. Cost sharing with hearing-related matters was undertaken whenever possible.

10.2 Nunavut Implementation Training Committee

10.2.1 Mandate

The Nunavut Implementation Training Committee (NITC) promotes training to enhance Inuit participation in the Nunavut workforce by providing funds and expertise to Designated Inuit Organizations (DIOs) and Institutions of Public Government (IPGs); by offering the Nunavut Beneficiaries Scholarship; and by supporting the federal and territorial governments in the development of Inuit employment and pre-employment training plans.

The NITC was established pursuant to Article 37.5 of the NLCA, and is responsible for the administration and sound use of the Implementation Training Trust. Funds from the Trust are used to support the development, delivery, and management of training in the areas of organizational leadership and workplace skills. The goal is to help individuals fully participate in the fulfillment of their organization's implementation responsibilities under the NLCA. Working in partnership with its client organizations, governments, and training institutes such as Nunavut Arctic College, the NITC assists client organizations in identifying organizational training needs and in identifying training options. NITC also implements training management and monitoring systems.

10.2.2 Training Funding

NITC provided training funding and support to DIOs and IPGs for Board Development, Staff Development, Trainee Management, Advisory Services, and the Nunavut Beneficiaries Scholarship. In particular, NITC would like to celebrate the following achievements from the reporting period:

- A large number of implementation organizations took advantage of NITC's programs and services. In 2004/05, 90 Nunavut organizations participated in NITC-funded workshops, seminars or training programs. In 2005/06 an additional 35 organizations from across the NSA delivered or benefited from NITC's programs and services;
- Almost \$1.3 million was provided during the reporting period for workshops, training and scholarships;
- One hundred and sixty five beneficiaries, including Inuit from every community in Nunavut, took part in NITC-sponsored training programs;
- Two years ago a special initiative was launched to encourage more use of NITC's programs by smaller organizations, and in particular HTOs. This effort has paid off. For example, in 2005/06 NITC provided funding for a major training session in Rankin Inlet that presented critical skills training to Secretary Managers of Hunters and Trappers Organizations (HTOs). In 2004/05 both Taloyoak and Igloolik HTOs also accessed funds to provide in-house administrative training;
- The Nunavut Beneficiaries Scholarship Program (NBS) was successful again in helping many NLCA beneficiaries gain the education and skills necessary for employment. Three hundred and thirty three beneficiaries received scholarships throughout the reporting period to attend university or college, or to participate in Nunavut Sivuniksavut;
- NTI implemented a number of recommendations from last year's independent evaluation to ensure the long-term sustainability of the NBS, promote excellence, and simplify program administration. Changes to the program have been posted on the NITC website at <http://www.nitc.ca/english/programs-scholarship.html>.

10.2.3 Operations

During the 2004/05 fiscal year, NITC worked with several of the organizations responsible for supporting economic and business development in the NSA including Atuqtuarvik Corporation, Kakivak Association, and Qikiqtaaluk Corporation. Other client organizations who accessed funding over the year included NTI, the NWB, the NPC, the Kivalliq Inuit Association (KivIA), and the Nunavut Arbitration Board (NAB).

In 2005/06 the organization completed a review and consolidation of its policies, procedures and bylaws. The revised corporate documents were presented for Board and member approval at the Annual Meeting in Iqaluit.

One of the primary areas of focus in 2005/06 was improving service to HTOs and providing training for members of these critical organizations. A number of steps were taken to improve HTO access to training funds and programs, including the development of a streamlined application process and assigning a special program officer to this area.

NITC helped fund two major training workshops during the 2005/06 fiscal year that brought together HTO Secretary Managers from across Nunavut. The workshops were co-hosted by NTI and the Nunavut Harvesters Support Program (NHSP), and covered a wide range of policy and planning issues of concern to HTO managers. These included NHSP initiatives, proposed Wildlife Act regulations, issues pertaining to polar bear quotas and bowhead whale harvesting, upcoming research projects, and a number of management, governance and administrative topics.

In the year ahead NITC will continue to work toward implementing the long-term strategic goals approved by the Board of Directors in the 2004 strategic plan. These goals include restoration of the Implementation Training Trust to its 1993 spending power, establishing data collection systems required to monitor program outcomes, and strengthening NITC's in-house capacity to provide technical expertise to government and other clients in the areas of training policy, planning, management, delivery, and evaluation. The full plan is available online at <http://www.nitc.ca/english/library-documents.html>. NITC will also continue to play an active role on the Article 23 working group, and work with NTI to support the renegotiation of the Implementation Contract for the NLCA.

10.3 Nunavut Planning Commission

10.3.1 Mandate

The Nunavut Planning Commission is mandated to establish land use planning policies, goals and objectives, and to develop Land Use Plans (LUP) that guide and direct resource use and development in the Nunavut Settlement Area. It is also responsible for developing, in cooperation with government, a general monitoring plan, and collating and analyzing information on the health of the ecosystems and socio-economic environment of the settlement area.

10.3.2 General Comments

The NPC experienced many challenges during the reporting period. Internal concerns regarding the operation of the Commission resulted in the completion of a comprehensive financial audit and independent management report. Since the completion of these reports in fall 2005, the Commission has nearly completed implementation of all the recommendations.

The operations of the organization remained generally uninterrupted since the beginning of the reporting period, with a number of advances made on streamlining the regulatory process within Nunavut.

10.3.3 Land Use Plans

Despite the challenges encountered during this period, the organization remained on track with most of its operations and NLCA implementation responsibilities.

In general, NPC continued to work on formalizing land use planning policies, processes, and methodology in relation to plan development, and further refined its processes in relation to community consultations. In 2004/05, NPC reinvented the organization's system of information gathering using a concept called map biographies. This involved interviews with elders that are recorded on both a compact disc and a paper map. The information was then overlaid and used for land use planning decisions. This improved the accuracy of baseline data for land use planning.

In addition to the ongoing implementation of the conformity requirements contained within the approved North Baffin and Keewatin Regional Land Use Plans of June 2000, Commission staff continued with the implementation of community level consultations, data collection, and the development of Map Biographies for different regions of the NSA. Transcription was completed for many community consultation meetings, and the notes were translated for greater accessibility.

In the Akkuniq Planning Region, map biographies were collected to provide sufficient background data for land use planning in the region. This work will continue in preparation for the regional planning process. This is also the case for the Kivalliq (Keewatin) region and for the Arviat Appummaq and Higjaa/Maguse Esker sites.

It is hoped that an office will be opened in the South Baffin Planning Region, and staff will be hired to complete map biographies and work on land use planning in this area. NPC is also considering a proposal to complete a similar map biography project in the Sanikiluaq Planning Region in order to set up base line data for the area.

A completed summary of comments was produced following the public hearing to review the draft proposal on the West Kitikmeot Planning Region, held in January 2005. Work in this area of land use planning for the NSA is ongoing.

10.3.4 Nunavut Wide Comprehensive Land Use Plan

Interest in the completion of a single comprehensive Nunavut wide LUP with regional and sub-regional components remained a priority for many of NPC's planning partners. Calls were received from communities, NGOs, government, industry and individuals to review and engage planning partners in public discussions on matters such as:

- Development on calving grounds;
- Caribou and wildlife management;
- Identification of conservation areas, parks, and special places;
- Social development matters;
- Requests to remove restrictions on all-weather roads (specifically on the Churchill to Rankin Highway);
- Uranium development;
- Hydro development; and
- Requests for a plan amendment to support lifting an NRCan moratorium on hydrocarbon exploration and development in the Hudson Bay (by the Hamlet of Coral Harbour).

Despite these requests, there were significant challenges to implementing the process for developing the 11.4.1 broad policies for land use planning. In 2005, after many discouraging efforts on the part of NPC to move the issue forward, the GN established a consultative process at the deputy minister level. NPC feels that this will help establish a much more productive working relationship with GN. GN has advised NPC that it is unwilling to work on any land use planning until this initiative has commenced.

10.3.5 Information Systems

The mandate of the NPC requires the development of a sophisticated but easily accessible one-window project registration system for companies. PLANNER (Public Land Use Application Network Notification Environmental Reporter) has been in use since 2001. The system has received positive feedback from industry and other stakeholders, and NPC worked towards implementing it as a one-window approach to receiving applications. Upgrades have been made to the system since it was developed in 2001 as suggested by key stakeholders at workshops.

In the 2004/05 fiscal year, an archiving system was set up in the GIS office for all of NPC's maps. There is a new version of NunaMap available. The license agreement for NunaMap II was finalized in 2005/06 with NRCan, and all data was downloaded at that time. This will ensure the most current base map for Nunavut is available, and a full copy will be given to all educational institutions in Nunavut. Other upgrades were made to interface with forms from NIRB that are required for the planning process. The most recent upgrades include Adobe Acrobat "signable" form generation, file upload functionality, and a new status tracking system with log files and an update of agency contacts for automatic e-mail notification. Bilateral MOUs were drafted and sent to INAC, NWB and NIRB regarding PLANNER, and staff have been trained in the new components of the software. Ongoing support is available through NPC staff.

10.4 Nunavut Water Board

10.4.1 Mandate

Pursuant to Section 13.21 of the NLCA, the NWB has responsibilities and powers over the regulation, use and management of water in the NSA.

10.4.2 NWB Activities

During the reporting period the NWB held public hearings for large mining and municipal projects. A total of 116 water licenses were issued, renewed or amended during the period, and the Board undertook 312 additional technical reviews.

10.4.3 Operations

A significant amount of work was completed on the NWB web site in 2005/06. Once the new website is launched, a staff member will be responsible for its regular updating and maintenance.

In both years of the reporting period NWB received funding from NITC to implement its annual training plan. This plan allows NWB to have a Licensing Clerk Trainee and carry out training activities for other staff members. As per NITC eligibility policy, funding for training activities is reserved for Inuit beneficiaries of the NLCA.

In the 2004/05 fiscal year a property was acquired in Gjoa Haven to be used for staff housing. Operating expenses represented 14.92 percent of the total expenditures for this year, but staff housing costs (fuel, mortgage, insurance, utilities, land leases, maintenance, etc.) have significantly increased over prior periods and represented 8.83 percent of the total expenditures. This was also true in 2005/06, where staff housing costs continued to increase significantly and represented 11 percent of the total expenditures. Office supplies, minor equipment purchases, maintenance and legal services costs were all higher than budgeted for this year. However, operating expenses remained within budget for both years.

In 2005/06 expenditures for Board activities were significantly lower than originally budgeted, since for most of the fiscal year there were an insufficient number of members to make a quorum for Board meetings. Lack of quorum not only made it difficult to carry out regular Board business, but also had an impact on public hearing processes. The Board was unable to carry out its duties as planned both in general operations and also in hearing-related projects.

10.5 Nunavut Wildlife Management Board

10.5.1 Mandate

The Nunavut Wildlife Management Board (NWMB) is the principal instrument of wildlife management and the main regulator of access to wildlife in the NSA, pursuant to Article 5 of the NLCA. The NWMB is a non-profit corporation, an IPG, and a co-management body.

10.5.2 Wildlife Management

During the 2004-06 reporting period, the NWMB maintained and modelled a wildlife management system that had the confidence of the public, Inuit and Governments.

NWMB is responsible for establishing, maintaining, modifying or removing quotas or other restrictions on wildlife harvesting in the NSA, as part of its mandate to protect wildlife and wildlife habitats in the NSA. During the period, NWMB allocated quotas and/or experimental licenses for shrimp, turbot, bowhead, arctic char, polar bears, muskox, groundfish, crab, cod, skate, narwhal, beluga, walrus and caribou. The NWMB was also involved in species monitoring, community consultations and working groups aimed at protecting species at risk.

Fisheries development remained a priority issue. NWMB staff participated in many fisheries forums and working groups; provided advice to DFO regarding fish, shellfish, and other marine species allocations; and equitably allocated Nunavut's share of quotas among eligible fishers and hunters. The community-based management system for narwhal and beluga that was developed in the previous reporting period continued to be monitored by NWMB.

Major accomplishments during the reporting period included completing the Final Report of the Nunavut Wildlife Harvest Study in August 2004. This report was distributed to all of NWMB's co-management partners, as well as a number of other interested agencies. The completion of this report represented the culmination of many years of hard work. It also heralded the beginning of a new phase in wildlife management for Nunavut.

With the Harvest Study Report completed, the NWMB commenced in earnest the process of introducing the "total allowable harvest – basic needs level – surplus" management system within Nunavut. Accordingly, in February 2005, the NWMB established a total allowable harvest and basic needs level with respect to Greenland Halibut in a new management area inside Cumberland Sound.

Another major milestone was the approval by NWMB of the *Thelon Game Sanctuary Management Plan* in July 2004. NWMB's approval of this Management Plan marked the culmination of a decade of consultation and preparation that began in 1994.

In November 2005, the Board hosted an informal hearing involving all RWOs, HTOs and other relevant co-management partners on Total Allowable Harvests (TAHs), and Non-Quota Limitations (NQLs) of the Regulations and Orders of the Wildlife Act.

10.5.3 Inuit Qaujimajatuqangit (Traditional Knowledge)

During the reporting period NWMB promoted the inclusion of both Inuit Qaujimajatuqangit (IQ) and modern science in all aspects of wildlife management. The current polar bear MOUs include IQ and modern science in suggesting quotas under these agreements. IQ is also considered in all relevant Board decisions. The NWMB has continued to work towards the proper inclusion of traditional knowledge in the assessment, classification and recovery of species under the *Species at Risk Act*, and has participated in a number of conference calls regarding the inclusion of traditional knowledge in stock status reports. Plans are currently underway to hold a workshop with the co-management partners in order to discuss and commence the development of policies and strategies for an effective IQ program.

10.5.4 Research Funding

The NWMB evaluated government and non-government research funding proposals, and provided funding to researchers from the Nunavut Wildlife Research Trust (NWRT) and the NWMB Studies Fund. Wildlife priorities identified in workshops during 2004 guided the NWMB research funding policies during this period. A total of \$1.63 million in research funding was provided to government departments under the NWRT, and \$329,300 was granted for community-based research under the NWMB Studies Fund during the period. The NWMB participated in the ongoing monitoring of various research projects underway in Nunavut, and made research data and results available to the public through the NWMB Research Centre and website.

10.5.5 Cooperation with Other Organizations

The NWMB worked in cooperation with administrative agencies and Aboriginal peoples from other land claim areas concerning shared wildlife populations such as polar bears, caribou, and beluga. These included Makivik, DFO, the World Wildlife Fund, and various other wildlife management boards. NWMB participated in a working group on climate change organized by the Nunavut Research Institute. NWMB has also been in touch with the Polar Bear Technical Committee concerning the potential effects of climate change on polar bears and their habitat.

The NWMB worked in cooperation with HTOs, RWOs, NTI, government departments, and other IPGs concerning land and resource management issues affecting Nunavut. This included providing advice to NIRB on land use permit applications, funding research by the Kugluktuk HTA with respect to Grizzly Bear and Wolverine, and providing quarterly payments to RWOs and HTOs for their ongoing operations. NWMB also provided support to the Executive Directors of many other IPGs in Nunavut upon request.

10.6 Nunavut Surface Rights Tribunal

10.6.1 Mandate

The Nunavut Surface Rights Tribunal (NSRT) was established under Articles 10 and 21.8 of the NLCA and in accordance with Section 99 of the Nunavut Waters and Nunavut Surface Rights Tribunal Act, assented to on April 30, 2002.

NSRT is an arbitrator of disputes over access to land, compensation payable to the surface title holder for access and the use of sand and gravel, and wildlife compensation claims. This quasi-judicial body is independent of any party, including government, industry or Inuit organizations. Its goal is to provide the fairest possible mechanism for the resolution of disputes within the context of the NLCA and legislation.

10.6.2 Operations

On March 7-8, 2006, the new members of the NSRT held their inaugural meeting in Rankin Inlet. The members were sworn in by the Justice of the Peace, and consist of a Chair and four members. The office is situated in Rankin Inlet.

To date, NSRT has not received any applications.

11 APPENDIX 1: Membership of Implementing Bodies

(As of March 8, 2006)

NUNAVUT IMPACT REVIEW BOARD

Vacant (Chair)

Vacant

Peter Akkinkungnaq

Mary Avalak

Henry Ohakannoak

Elizabeth Copland

Albert Ehaloak

Lucassie Arragutainaq

Peter Paneak

MAKIVIK CORPORATION NOMINEES

Putulik Papigatuk

Donald Watt

NUNAVUT IMPLEMENTATION TRAINING COMMITTEE

Peter Kritaqlilik(Chair)

Paul Quassa

Hugh Nateela

Irene Tanuyak

Anna Qaunaq

Mary Panegyuk-Coady

Mary Jane Adamson

SURFACE RIGHTS TRIBUNAL

Eugene Ipkarnak

Simionie Keenainak

Vacant

Mark Calliou

Vital Nauya

NUNAVUT IMPLEMENTATION PANEL

Joe Kunuk

John Merritt

David Akoak

Terry Sewell

NUNAVUT PLANNING COMMISSION

Vacant (Chair)

Peter Kritaqliluk (Interim Chair)

Vacant

Frank Ipakohak

Pauloosie Kilabuk

Vacant

Vacant

Meeka Kilabuk

Ron Roach

MAKIVIK CORPORATION NOMINEES

Putulik Papigatuk

Donald Watt

NUNAVUT WATER BOARD

Vacant (Chair)

Lootie Toomasie (Acting Chair Dec 6/05)

Lootie Toomasie

Raymond Kayasark

George W. Porter

Geoff Kusugak

Thomas Kabloona

Vacant

Robert Hanson

Guy Kakkiamun

MAKIVIK CORPORATION NOMINEES

Putulik Papigatuk

Donald Watt

NUNAVUT WILDLIFE MANAGEMENT BOARD

Joe Tigullaraq, Chairperson

Harry Flaherty

Nick Amautinuvar

Paul Pemik

Joanne Ikkidluak

Abraham Kaunak

Vacant

Kevin McCormick

Pitsiolak Alainga

Johnny Peters

Pauloosie Novalinga

MAKIVIK CORPORATION NOMINEES

Johnny Peters

Paulusie Novalinga

12 APPENDIX 2: Schedule of Payments

12.1 Implementation Funding

Government of Nunavut

To fulfill its responsibilities under the Agreement and Implementation Contract.

2001	\$ 1,492,477
2002	\$ 2,402,050
2003	\$ 850,100
2004	\$ 2,605,000
2005	\$ 2,661,000

Nunavut Arbitration Board

To fulfill its responsibilities under the Agreement and Implementation Contract (Section 38.1.7)

2001	\$ 27,457.00
2002	\$ 15,625.00
2003	\$ ----
2004	\$ 54,594.00
2005	\$ 5,850.00

Nunavut Impact Review Board

To fulfill its responsibilities under the Agreement and Implementation Contract

(Section 12.2.31 of Agreement and Contract and public review Section 5.14 of the Implementation Contract)

2001	\$ 1,664,059 \$ 424,812 for public hearings
2002	\$1,709,658 \$ 145,405 for public hearings
2003	\$ 1,906,906 \$ 977,890 for public hearings
2004	\$ 2,004,363 \$ 1,046,398 for public hearings
2005	\$ 2,075,712 \$ 1,394,629 for public hearings

Nunavut Planning Commission

To fulfill its responsibilities under the Agreement and Implementation Contract (Section 11.4.3)

2001	\$2,627,376
2002	\$2,741,339
2003	\$3,110,197
2004	\$3,279,322
2005	\$3,293,634

Surface Rights Tribunal to fulfill its responsibilities under the Agreement and Implementation Contract (Section 21.8.1)

2001	\$200,670
2002	\$179,734
2003	\$188,079
2004	\$ 78,269

Nunavut Water Board

To fulfill its responsibilities under the Agreement and Implementation Contract (Section 13.3.17 of Agreement and Contract and public hearings 5.14 of the Contract)

2001	\$ 1,568,104 \$ 368,729 for public hearings
2002	\$ 1,568,388 \$ 1,257,088 for public hearings
2003	\$ 1,774,834 \$ 629,136 for public hearings
2004	\$ 1,876,202 \$ 1,116,908 for public hearings
2005	\$ 1,942,988 \$ 559,560 for public hearings

Nunavut Wildlife Management Board

To fulfil its responsibilities under the Agreement and Implementation Contract (Section 5.2.19)

2001	\$ 4,739,908
2002	\$ 4,691,279
2003	\$ 4,679,411
2004	\$5,064,486
2005	\$4,360,941

12.2 Capital Transfers to Nunavut Trust

(Net of Loan Repayment)

On March 1, 2002, Nunavut Trust made a lump sum payment of \$20,504,533 to Canada in repayment of the outstanding balance of negotiation loans.

May 25, 1993	\$ 79,307,736
May 25, 1994	50,895,504
May 25, 1995	67,860,673
May 25, 1996	84,825,841
May 25, 1997	84,825,841
May 25, 1998	84,825,841
May 25, 1999	84,825,841
May 25, 2000	84,825,841
May 25, 2001	84,825,841
May 25, 2002	89,682,231
May 25, 2003	89,682,231
May 25, 2004	89,682,231
May 25, 2005	71,745,785
TOTAL	\$ 1,047,811,437

12.3 Resource Royalty Payments to Nunavut Trust

1993-1994	\$ 1,260
1994-1995	53,060
1995-1996	1,091,598
1996-1997	1,020,528
1997-1998	1,034,210
1998-1999	1,180,662
1999-2000	1,324,288
2000-2001	1,297,382
2001-2002	1,131,031
2002-2003	183,528
2003-2004	17,600
2004-2005	0
2005-2006	0
TOTAL	\$ 8,335,150

12.4 Implementation Payments to the Government of Nunavut and Implementing Bodies

1993-1994	\$ 26,295,640
1994-1995	6,320,187
1995-1996	12,434,589
1996-1997	13,306,032
1997-1998	13,670,874
1998-1999	13,988,681
1999-2000	15,097,405
2000-2001	14,754,467
2001-2002	13,113,591
2002-2003	14,712,568
2003-2004	14,118,556
2004-2005	17,190,737
2005-2006	18,331,488
TOTAL	\$ 157,812,590

13 APPENDIX 3: Amendments

The following is a cumulative of all amendments to the *Nunavut Land Claims Agreement* and to the Implementation Contract, which received Governor in Council approval following all-party recommendations.

(Effective April 26, 1995)

NUNAVUT LAND CLAIMS AGREEMENT	IMPLEMENTATION CONTRACT
<p>5.4.2: extension to January 1, 1996 from July 9, 1994 for the start of the Nunavut Wildlife Harvest Study; and</p> <p>5.6.25: extension for the Nunavut Wildlife Management Board to establish the basic needs levels for beluga, narwhal and walrus within 24 months, rather than 12 months, from the establishment of the Nunavut Wildlife Management Board.</p>	<p>5.2: extending funding provided to the transition teams to year three of implementation;</p> <p>Schedule 1 Page 5-6: extending the time-frame for the Nunavut Wildlife Management Board to develop the methodology and design of the wildlife harvest study (to October 1, 1995), to identify the Designated Inuit Organization required to collect data (to January 1, 1996), and to prepare a multi-year budget for the study (to July 1, 1995);</p> <p>Schedule 1 Page 5-13: extending the time-frame for establishing Hunters and Trappers Organizations and Regional Wildlife Organizations from the first anniversary of the Agreement (July 9, 1994) to the second anniversary (July 9, 1995);</p> <p>Schedule 1 Page 19-13: deleting the Department of Energy, Mines and Petroleum Resources as a responsible agency respecting the rights to carving stone; and</p> <p>Schedule 2 Part 2: transferring funding from the Nunavut Water Board and Nunavut Impact Review Board Transition Teams to the Territorial government to provide additional funding for the training of municipal land administrators.</p>

(Effective September 17, 1996)

NUNAVUT LAND CLAIMS AGREEMENT	IMPLEMENTATION CONTRACT
<p>5.6.25: extension of the deadline for the establishment of the basic needs levels for beluga, narwhal and walrus to March 31, 1997;</p> <p>8.2.2: extension to negotiate and conclude an IIBA for Auyuittuq National Park by July 9, 1997;</p> <p>8.2.3: extension to negotiate and conclude an IIBA for Ellesmere Island National Park by July 9, 1997; and</p> <p>35.5.7: extension to the deadline for the Appeals Committee to hear and determine appeals to July 9, 1996.</p>	<p>Page 8-2 of Schedule 1: replacing the entry under the heading "Timing" to July 9, 1997;</p> <p>Page 8-3 of Schedule 1: replacing the entry under the heading, "Timing" to July 9, 1997;</p> <p>Page 24-1 of Schedule 1: replacing the first entry under the heading, "Referenced Clauses" by 24.2.1; and</p> <p>Page 35-6 of Schedule 1: replacing the entry under, "Timing" for the second activity by July 9, 1996.</p>