

**Nunavut: Aboriginal Self-Determination through Public  
Government**

Prepared for the Royal Commission on Aboriginal Peoples

by

Gurston Dacks

## Table of Contents

1. The Nunavut Process	1
1.1 The Rationale for Nunavut	1
1.2 Historical Sketch of the Division Process	2
1.3 The <u>Nunavut Political Accord</u>	17
1.4 <u>Provisions of the Nunavut Act</u>	19
1.5 The <u>Nunavut Land Claims Agreement Act</u>	23
2. Nunavut and the Nunavut Claims Agreement: A Seamless Web	26
3. Nunavut: A Unique Case of First Nations Self-Determination	30
4. Preparing for Nunavut	33
4.1 The Stages in the Process	33
4.2 The Challenges in Creating Nunavut	35
(i) The Process	36
(ii) Planning Principles	40
(iii) Balancing Continuity and Change	44
(iv) Organizing the Government of Nunavut	46
(v) Relationships among Public Governments In Nunavut	47
(vi) Relationships between Claims-Based Institutions and Institutions of the Nunavut Government	48
(vii) Personnel and Training	49
(viii) Financial Arrangements	53
(ix) International Capability	60
(x) The Elders	60
(xi) Gender	61
(xii) Inuit Youth	62
(xiii) Provisions for the West in the Nunavut Process	63
(xiv) The Capital of Nunavut	66
(xv) Jurisdiction over Land and Resources	68
5. Political Will	69
6. Conclusion	72
Appendices	

## Executive Summary

The Inuit have sought division of the Northwest Territories in order to create a public government that they can control and that will help ensure that regulatory agencies created under their claims Agreement will protect their interests. (1-2)

The Inuit first proposed division in 1976. In 1982, a territory-wide plebiscite approved the concept and the Government of Canada gave its conditional approval. Article Four of the Inuit claims Agreement of 1991 committed the Government of Canada to creating Nunavut. The Nunavut Political Accord of 1992 among the Inuit and the governments of Canada and the Northwest Territories confirmed important commitments as to the process and terms under which Nunavut would be created. Important provisions of the Accord include:

- 1) Nunavut will come into existence on April 1, 1999.
- 2) The Nunavut government will exercise full legislative authority as of 1999, but will only have a limited administrative capacity, with additional capacity to be developed over time.
- 3) Nunavut "may" and the western territory that will result from division "will" receive formula funding from the Government of Canada at levels that will permit them to provide public services. Existing public services will be a consideration in the setting of these levels. Canada will pay for the "reasonable incremental costs" of creating and operating Nunavut.
- 4) Training of Inuit will be a very important part of the preparation for Nunavut.

The Nunavut Act was approved by Parliament in June, 1993. It provides for the basic legislative, executive and administrative structures of the Government of Nunavut, which closely resemble those of the Government of the Northwest Territories. The Act provides for a Nunavut Implementation Commission, composed of representatives of the two governments and the Nunavut Tunngavik, which represents the Inuit of the region and is

responsible for the implementation of their claims Agreement. The mandate of the NIC is to advise the three parties on implementation questions. An Acting Commissioner will act on behalf of the Government of Nunavut before it becomes operational. (18-21?)

The Nunavut Lands Claims Agreement Act was passed at the same time as the Nunavut Act. In addition to confirming Inuit ownership of certain lands and providing cash compensation to the Inuit, the former Act establishes regulatory agencies including the Nunavut Wildlife Management Board, the Nunavut Planning Commission, the Nunavut Impact Review Board and the Nunavut Water Board. Inuit organizations and governments are represented by equal numbers of members on these agencies (23?)

Nunavut and the Nunavut claims Agreement are the two inseparable parts of a logical whole in that the creation of Nunavut ensures that the territorial government representatives on these agencies will be sensitive to Inuit needs, and thus that these agencies will protect the fundamental Inuit interest in their wildlife harvesting activities, as was the intention in providing for them in the claims Agreement. (24-27)

Nunavut is a unique case of First Nation's self-determination as Nunavut will be the only jurisdiction which will have all of the following characteristics: public government; a broad span of powers; authority over a large enough area to provide effective wildlife and resource management; authority over and accountability to a largely aboriginal population that is likely to remain predominantly aboriginal in the future; and a promise of adequate fiscal arrangements with the government of Canada. (27-29).

Preparation for Nunavut will occur in a number of stages (30-32) and will confront planners with a range of challenges. These include: process; planning principles; balancing continuity and change; organizing the Government of Nunavut; relationships among public governments (local, regional and territorial) in Nunavut; personnel and training; financial arrangements; international capability; the role of Inuit elders; gender; Inuit youth; provisions for the new western territory; selecting the capital for Nunavut; and jurisdiction over land and resources.

After reviewing these challenges, the study proposes the following recommendations for the Royal Commission to consider:

- (1) That the Government of Canada maintain a high level of commitment to Nunavut among its program priorities and allocate the funding needed to implement properly the Nunavut Act. This will be particularly important in the case of adequately funding training programs and transitional and incremental costs.
- (2) That the Government of Canada fully support the Nunavut Implementation Commission as the focus for planning for the creation of Nunavut and respect its independent status as a tripartite body.
- (3) That careful consideration be given to expediting the transfer of jurisdiction over land and resources to the Government of Nunavut so as to realize the full potential for Inuit control over their environment contained in the Inuit final Agreement.
- (4) That employment equity be a fundamental goal in the design of the Government of Nunavut and that gender equality be formally identified as one of the principles upon which Government is based.
- (5) That Inuit elders and youth be appropriately involved in the planning for Nunavut.
- (6) That planning for Nunavut be understood to require planning and equitable provision for the needs of the new western territory which will come into being as a result of the creation of Nunavut
- (7) That to assist the meeting of one the most critical needs, the design of a western constitution, the policy of the Government of Canada regarding the balance between the principles of First Nations self-government and public government in the western NWT encourage a convergence of thinking on this issue among the residents of the area by favoring neither of these principles over the other.

(67-68)

The June, 1993 passage of the Nunavut Act and the Nunavut Land Claims Agreement Act marks a new stage in the long process leading toward the creation of a new northern territory. This report will sketch the history of this process. By explaining how the goals of the various participants in the process have interacted to produce the consensus underlying these Acts, the report will identify for the Commission the context to which its recommendations must relate. The report will review the salient provisions of the Nunavut Act and the Agreement between the Inuit of the Nunavut Settlement Area and Her Majesty the Queen in Right of Canada (hereafter referred to as "the Agreement") and will explain the essential linkages between them. Finally, the report will anticipate the issues which are likely to arise in the course of implementing Nunavut and will propose for the Commission's consideration recommendations which it might make regarding these issues.

(1) The Nunavut Process

1.1 The Rationale For Nunavut

"...to those of us who live in Nunavut, geography, climate, history, language, culture, economics and the way we live have made us a natural region with a clear community of interests for as long as anyone can remember." (NCF 1983:7)

The basic assumption underlying the pursuit of Nunavut has been that a community, which is how the people of Nunavut see themselves, should be self-determining. In their view, the fundamentals of life which they share provide a much more promising basis for organizing and operating a government and maintaining consensus within it than does the very heterogeneous social fabric of the present Northwest Territories. They believe that a Nunavut government will be more responsive to Inuit

cultural and economic needs than the Government of the NWT has been for several reasons. First, Inuit should continue to form a very substantial majority of the electorate in the Nunavut region. The likelihood of this prospect will be enhanced to the extent that education and training will equip Inuit for jobs in the likeliest growth areas of the Nunavut economy--government and non-renewable resources--thus reducing the need for in migration of non-Inuit workers and their families. Second, Inuit will play a much larger role in the public service of Nunavut than they currently play in the Government of the NWT. Third, the Government of Nunavut will be geographically closer, hence more accessible to them than the Yellowknife-based Government of the NWT has been. Further, they anticipate that Nunavut will protect them in important ways in the future. It is conceivable that immigration from the South into the western Arctic could produce an electorate for the existing NWT in which non-Natives outnumber Natives. In contrast, it is very unlikely that enough newcomers will immigrate into Nunavut to end the Inuit majority in the electorate and the assurance of a government responsive to Inuit needs which that majority provides. More importantly, as will be explained below, provisions of the land claims Agreement which are crucial for the future of Inuit wildlife harvesting will only succeed if the public government is sympathetic to Inuit needs. By creating a public government which is certain to be responsive to these needs, division greatly enhances the likelihood that the Agreement will realize the hopes which underlie it.

## 1.2 Historical Sketch of the Division Process

The first project to divide the present-day Northwest Territories did not draw upon this vision. To the contrary, business interests in the western Arctic promoted division in

the early 1960s as a means of accelerating the development of self-government in the western Arctic. A bill was tabled in Parliament to divide the NWT in two but lapsed when the 1963 election was called.

The Advisory Commission on the Development of Government in the Northwest Territories weighed the idea of division in its 1966 report. It judged division to be inevitable but recommended against it for the short term and, instead, that the Government of the Northwest Territories be moved from Ottawa to the NWT and its operations decentralized throughout the NWT (Vol. 1, 189-90).

In 1976 the Inuit Tapirisat proposed to the federal cabinet that all of the NWT North of the tree line form a new territory with its own public government that would facilitate the implementation of a future settlement of the Inuit land claim. This proposal was withdrawn by the Inuit for revision, and in 1979, the ITC released Political Development in Nunavut. This proposal called for creation of a Nunavut territory comprising all of the NWT North of the tree line except for the western Arctic inhabited by the Inuvialuit, who might join Nunavut if they wished to do so. Political Development in Nunavut repeated its predecessor's position that division was necessary for the settlement of the Inuit claim. It also emphasized the need for control over agencies with land management responsibilities to be transferred to the government of the new territory. As has been a consistent characteristic of the Inuit position, the paper accepted that Nunavut would be subject to national standards concerning rights (at the time, the Canadian Bill of Rights) and proposed a form of government which was consistent with conventional Canadian institutions.

Although Bud Drury, Prime Minister Trudeau's Special Representative for Constitutional Development in the Northwest



Territories recommended in 1979 against division of the NWT in the near future, events in the NWT were unfolding at the time which supported division. The territorial election of 1979 brought to the Ninth Legislative Assembly a number of Native MLAs and sympathetic non-Natives who raised the profile of issues of particular interest to Native people. The Assembly created a Committee on Unity, which recommended in 1980 that the NWT be divided. The Assembly endorsed the principle of division and sponsored a territory-wide plebiscite on the question in April of 1982. Half of those eligible voted and 56% of them supported the principle of division. While only 28% of all eligible voters supported division, the principle did receive a clear majority of the votes cast. Moreover, 75% of the eligible voters in the East voted and of them, 82% endorsed division. This vote confirmed that Inuit support for division was very broadly based. To a degree this undercut the legitimacy of opposition to division by demonstrating it to be at odds with the clearly expressed wishes of the Inuit concerning their future self-determination.

1982 saw the creation of the Constitutional Alliance of the Northwest Territories, composed of the Western Constitutional Forum and the Nunavut Constitutional Forum. These bodies contained representatives of the Legislative Assembly and of the First Nations of the respective regions of the NWT. The Alliance was charged with the responsibility for planning for the division of the NWT and, in particular, for achieving a consensus on the boundary between the two new territories. Each of the Forums had special responsibility for developing proposals for the constitution of the new territory for which it was responsible. Also in 1982, the Government of Canada approved division in principle, subject to the following conditions:

- Northerners must reach consensus among themselves and

agreement with the federal government on the boundary between the two new territories.

- Northerners must reach consensus and agreement with the federal government on the distribution of powers to local, regional and territorial levels of government.

- All comprehensive land claims must be settled.

- A majority of NWT residents must continue to support division.

While these conditions fostered the attainment of a number of the government's northern policy goals and ensured its continued control over the division process, its formal endorsement of division added momentum to the Nunavut cause.

However, this momentum diminished during the rest of the decade. The Nunavut Constitutional Forum produced two significant planning documents (NCF 1983, 1985) and undertook an extensive public consultation concerning them. However, it was unable to make substantial progress because it proved impossible to attain agreement on the boundary between the Dene/Metis and the Inuit claims settlement areas. Because this boundary would also have been the boundary between the two territories, the failure to agree upon it meant that one of the key conditions set by the Government of Canada could not be satisfied. During this period, both governments supported division in principle, but neither forcefully promoted it. For its part, the Government of the Northwest Territories felt cross pressured on the issue. While the Nunavut caucus in the Assembly strongly supported division, many people in the West feared its consequences for their region. They feared that the Government of Canada would not assume the full cost of division and that they would have to bear some of this, either through higher taxes, reduced services or both. Many were anxious that the Government of the Northwest Territories would shrink considerably as a result of division and that this would threaten the job security of territorial head office public servants and deflate the

economy of Yellowknife. Some feared a diminished strength for Native concerns in the Assembly with the departure of the almost exclusively Native eastern caucus. In the face of these and other considerations, the Government of the NWT placed more emphasis on gaining additional provincial-type powers by means of devolution from Ottawa than it did on promoting division (Dacks: 347-57).

The Government of Canada had its own concerns. These included the financial cost of division; anxieties that the new territory would pursue policies which would frustrate non-renewable resource development; the perception that the creation of Nunavut would encourage Quebec separatism by appearing to derive from a right to ethnic self-determination; and a wish not to discuss issues of political development in the course of the Inuit land claims negotiations, lest this be interpreted by observers as the government's acceptance of the view that First Nations self-government was an aboriginal right, hence enjoyed the constitutional protection accorded to agreements reached on the basis of aboriginal rights. (Merritt: 4) To be fair, while both governments might have done more to promote progress toward division, they were limited in their ability to force the pace of the process. The Government of the Northwest Territories lacked the authority to impose either a boundary between the two claims or a consensus on the complex question of a constitution for the ethnically diverse western territory. The Government of Canada possessed this authority, but felt, correctly, that it lacked the legitimacy to impose solutions, certainly not until discussions among northerners had had a full opportunity to reach agreement.

Consistent with this policy, after negotiations between the Dene/Metis and the Inuit concerning the boundary between their settlement areas proved fruitless, the Government of Canada

appointed John Parker, former Commissioner of the Territories, to recommend a boundary between the two claims areas and, consequently between the two territories to be created as a result of division.

In the end, it was developments related to the land claim which thawed the division process. The Tungavik Federation of Nunavut (which had been responsible since 1982 for negotiating the claim on behalf of the Inuit of the Nunavut region) and the Government of Canada negotiated an agreement-in-principle on the TFN claim in April of 1990. This agreement and the final Agreement of December 1991 contained provisions concerning the linkage of division and the claims settlement which met the needs of the TFN and both governments. The Inuit received a commitment that the Government of Canada would "recommend to Parliament, as a government measure, legislation to establish within a defined time period a new Nunavut Territory...." (Tungavik and Minister of Indian Affairs and Northern Development: 23). This wording does not commit the Government of Canada to any particular provision or approach concerning the creation of Nunavut. However, the Inuit argue that Article Four does commit the Government of Canada to the creation of Nunavut as, in effect, a treaty right. In other words, the Inuit view Article Four as giving them a constitutionally protected right to Nunavut that will prevent Canada from reneging on its commitment to Nunavut should it wish to do so.

For greater assurance, the Agreement specified that before the Inuit would be asked to ratify it, the two governments and the TFN would negotiate a "political accord". This accord would:

"...establish a precise date for recommending to Parliament legislation necessary to establish the Nunavut Territory and the Nunavut Government, and a transitional process....(and) provide for the types

of powers of the Nunavut Government, certain principles relating to the financing of the Nunavut Government and the time limits for the coming into existence and operation of the Nunavut Territorial Government." (Tungavik and Minister of Indian Affairs and Northern Development: 23)

These provisions assured the Inuit that they would not jeopardize their goal of simultaneously creating Nunavut and settling their claim because they would not have to ratify their claim settlement until after they knew the contents of the political accord. Moreover, they knew that their ability to withhold ratification if the accord proved unsatisfactory would give them substantial leverage at the bargaining table.

For its part, the Government of Canada was concerned that it be clear that the Government of Nunavut would not be a First Nations government. It sought clarity on this point to ensure that the public government of Nunavut would not at some time in the future come to be seen as an aboriginal government deserving Section 35 protection that would give it a superior status to the other two territorial governments. The Agreement provisions concerning political development specify that the accord and any legislation based on the accord are to be separate from the Agreement and are not to be considered a land claims agreement or treaty right protected by Section 35 of the Constitution Act, 1982.

Thus it was by using the land claims agreement as a lever that the TFN was able to build upon the earlier commitment of both governments to division. While the Government of the NWT had formally supported the creation of Nunavut throughout the 1980s, the concerns, primarily from the western Arctic, noted above discouraged it from aggressively promoting division. However the Government of the NWT had long been a supporter of aboriginal claims settlements. The April, 1990 TFN

Agreement-in-Principle appeared to bring a final agreement within reach and committed the Government of the NWT to contribute to the removal of the few remaining obstacles standing in the way of a final agreement. In October of 1990, the Government of the NWT joined with the TFN in urging the federal government to commit itself to create Nunavut within a fixed time frame in order to achieve settlement of the TFN claim. Later, Article Four of the Agreement gave the Inuit the claims-based guarantee of Nunavut that they needed. The western Arctic interests within the territorial government who were skeptical of division found their position undercut because they could not oppose Nunavut without also opposing the settlement of a very important aboriginal claim.

While the TFN Agreement-In-Principle was concluded before them, two events in 1990 very much heightened the interest of the Government of Canada in securing a settlement with the TFN. First, the collapse of the Dene/Metis claims negotiation made it urgent that Government of Canada demonstrate that its land claims policy was capable of producing settlements. Second, the ugly confrontation between the Mohawks of Oka and the Canadian and Quebec governments suggested a bankruptcy in Canada's policies toward First Nations, a suggestion which the Government of Canada was eager to refute. This context (and the moderate positions taken by the Inuit in national constitutional discussions) encouraged the government to make the compromises necessary to move from the Agreement-In-Principle to the final Agreement. Whether these compromises would have been made in a less intense atmosphere cannot be judged. However, this pressure was very much a part of the context of the compromises. This fact does raise the question of the likelihood that the Government of Canada will make similar compromises should the need arise during the preparations for Nunavut, preparations

which are not likely to be surrounded by circumstances which press the Government of Canada nearly as hard as did the events of 1990.

After the negotiation of the Agreement, the two governments and the TFN formed a Nunavut Steering Committee of senior officials to negotiate the Accord and, subsequently, the Nunavut Act. All sides were committed to the process for the reasons noted above, and all report that the negotiations proceeded in a generally smooth and cooperative fashion. On a number of issues, a shared vision prevailed. An example is the emphasis which the Accord gives to training and human resource planning. All three parties want the Government of Nunavut to employ as many Inuit as possible, both to reduce Inuit unemployment and to foster culturally sensitive public administration. However, even in this case of agreement in principle, the federal negotiators were careful to seek wording in the Accord which would not alarm the Treasury Board or the Department of Finance by appearing to suggest an open-ended commitment by the Government of Canada to pay Nunavut-related training costs.

The substantial trust developed during the Steering Committee's discussions is reflected in several provisions of the Accord which anticipate good faith dealings in the preparations for the creation of Nunavut. The prime example is the design of the institutions which will plan and take the executive actions necessary to create Nunavut. It was relatively easy to agree that there be a tripartite advisory planning body, the Nunavut Implementation Commission. All three parties negotiating the Accord were familiar and reasonably comfortable with this model from the Inuit land claims agreement. One issue which did arise, however, was the degree of independence of the NIC. From one perspective it can be argued that the Government

of Canada initially presumed that the NIC would be under its wing to a considerable degree, for example that its employees would be federal public servants. From another perspective, the Government of Canada was comfortable with an independent NIC but wanted its organization and operation to permit accountability to the taxpayer, whose interests are represented by the Government of Canada. In the end, it was agreed that for the NIC to best represent the interests of Nunavut, it should operate at arms length from all three of the agencies represented on it.

The three sides also agreed that, in order to bring Nunavut into existence efficiently, there had to be a single agency which actually confirmed the design, negotiated the contracts and did the hiring for the Nunavut government. The task could not be divided between the two governments, except at the risk of confusion and duplication of effort.

While it was easy to agree on a single agency approach, the nature of that agency was less easy to decide. Many options were considered and rejected. One possibility was to elect an Assembly for Nunavut in advance of its creation and to give it initially only the powers needed to construct the Government of Nunavut. This approach was discarded because the TFN felt that to create an only partially empowered legislative assembly would be to turn the clock back 25 years. The TFN believed that the Nunavut government could not be expected to have the administrative capacity to deliver the full span of territorial powers immediately, particularly if it were to employ large numbers of Inuit workers. However, it was determined that the government should receive authority over these powers rather than having to rely on the Government of Canada to decide the pace at which the Nunavut Government would be ready to have these powers devolved to it. The two governments agreed with the concept of



creating a Nunavut government with the same powers as the government of the new western territory. All agreed that it would be invidious to create for the West a fully empowered government, but for Nunavut only a lesser government that would appear vulnerable to the paternalism which used to colour federal-territorial relations. The Government of the Northwest Territories, perhaps a plausible candidate to handle the task of implementation was also rejected, in part because it would have been in a conflict of interest regarding some issues such as the equitable division of assets and liabilities between the two new territories. The Nunavut Implementation Commission might have been vested with executive power, but all agreed that this would involve very substantial legal complications. It might also have interfered with its primary task of advising the two governments how to implement division. The idea of a commissioner with full executive powers acting without a legislative assembly was also rejected as a throwback to the 1950s, unacceptable because it did not provide for democratic accountability. Also, it would give too little control over the process to the TFN and the Government of the Northwest Territories, which obviously had crucially important interests that they wished to be in a position to protect.

Debate on this question continued into the late stages of preparing the Nunavut Act (the issue is not addressed in the Accord). In the end, a consensus emerged in favour of an Interim Commissioner having the executive authority to actually take the first steps in constructing Nunavut. The TFN and the Government of the NWT felt comfortable with this model, which gave them less direct control than if the NIC held executive authority, in part because no better arrangement could be found. More importantly, the constructive stance of the Government of Canada in the Steering Committee gave them grounds for optimism

that its instructions to the Interim Commissioner would reflect the recommendations it received from the NIC and that it would consult with them concerning the implementation of recommendations. For its part, the Government of Canada accepted that the Interim Commissioner will not be able to enter into certain types of long-term commitments or contracts on behalf of Nunavut. This understanding, which is set out in the Nunavut Act, will enable the Government of Nunavut to quickly substitute its own policies in place of policies which the Interim Commissioner may have made under instructions from the federal government.

While the Steering Committee debate on an appropriate device for implementing Nunavut very much took the form of a mutual search for a solution to a complex problem, on other issues the three parties brought particular concerns to the negotiations. One general pattern was that the Government of the Northwest Territories and the Tungavik Federation of Nunavut wanted the Accord and the Act to be relatively expansive documents. They wanted the mandate of the NIC to be as wide as possible. Also, while they appreciated that it was not possible to bind the Government of Canada to any undertakings it might give, they felt that having commitments in writing, even if only in the Accord and not the Act, would strengthen the Inuit moral position in future negotiations with the Government of Canada concerning the implementation of Nunavut. As a result of this concern, the Accord contains wording on objectives in designing Nunavut and on financial issues which is fuller than the Government of Canada originally anticipated.

On specific issues, the TFN and the Government of the NWT often supported each other. This is not surprising. After all the Inuit form a large part of the constituency which the

Government of the NWT represents. Also, the two parties shared interests in common; the West would benefit from the application in it of principles which the TFN was seeking for Nunavut, and vice versa.

Consistently since the discussions on the claim Agreement in-Principle, the TFN had been determined to ensure that the Inuit not find themselves in the position of having ratified the claim settlement, and thus lost their bargaining power, on the presumption that Nunavut was assured only to find that Nunavut somehow failed to come into existence. With this principle accepted in Article Four of the Agreement and with the support of the Government of the NWT, the TFN insisted that a date be set for the implementation of division. The Government of Canada was concerned that it might not be possible make the necessary preparations by a specific date. It preferred no date be stipulated in legislation. It suggested that the date be decided as time passed and progress toward Nunavut could be assessed and then be established by proclamation. However, this option was felt to give the Government of Canada too much control over the timing of Nunavut, control it might use to cause delays should its commitment wane. In early 1992, a meeting of Inuit elders, wanting to ensure adequate time for job training, expressed a preference for 1999 instead of 1997, the then current target date for division, to be the date for the creation of Nunavut.

This coincided with the results of the Steering Committee's calculations of how much time would be required, and also with the date of a territorial election. These considerations led to the selection of April 1, 1999 as the date of the official creation of Nunavut.

The Government of the NWT sought financial assurances that were essential in order to allay the anxieties of residents of

the western NWT that they would end up paying significantly for the creation of Nunavut. The TFN supported the Government of the NWT as Nunavut would obviously benefit from clear commitments concerning the financial impacts of division. Both wanted the Government of Canada to pay the incremental costs of division and to promise that the two territories would be provided with the funding necessary to maintain the existing levels of services provided by the Government of the NWT. However, the Government of Canada was very concerned that it not appear to be writing a blank cheque. It refused to accept any provision which would have limited its ultimate authority to set the formula on the basis of which its transfer payments to the two territories would be calculated. It committed itself to the principle that services would not decline as a result of division, but not to the principle that services would not be allowed to decline for other reasons. This position is consistent with its fiscal relations with the provinces, which cannot compel it to give them levels of funding needed to maintain existing levels of provincial services. Moreover, the Government of Canada wanted to reserve the right to limit its funding of the incremental costs of division, resulting in the provision that it would only fund "reasonable" incremental costs. In the end the negotiations over the wording of the section of the Nunavut Political Accord dealing with financial arrangements proved to be among the most intense the Steering Committee experienced.

The Government of Canada, in addition to wanting to circumscribe its financial commitment, brought a variety of goals to discussions on the Accord and the Act. One was to ensure that division would not interrupt the provision of government services and the legislative regime in the Nunavut area. Given that the TFN and the Government of the NWT shared this concern for continuity, it proposed that the Nunavut Act allocate to the

Nunavut Government only those powers that it could be expected to administer from the start, with other powers to be devolved to it thereafter by means of amendments to the Nunavut Act. As reported above, the TFN viewed such an approach as politically unacceptable. By mutual consent, the idea was abandoned in the subsequent discussion in favour of the concept of creating a Nunavut Government which would have full legislative powers immediately, but would begin to deliver specific programs over a period of time as it gradually developed the administrative capacity to do so.

A third concern of the Government of Canada, which was not contentious, was to ensure that the creation of Nunavut occur in a fashion which was equitable to both new territories.

Fourth, the Government of Canada, in particular the Department of Justice, wanted to use the opportunity presented by the Nunavut Act to resolve a long-standing difference of opinion between itself and the Government of the Northwest Territories. The issue concerns the extent of the jurisdiction of the territorial government in the offshore region adjacent to its land mass. The Northwest Territories Act contains the wording that the Northwest Territories comprises "all that part of Canada North of the Sixtieth Parallel...." The Act says nothing about whether "that part of Canada" refers only to land or to land and water. The Government of Canada wanted the Nunavut Act worded in a fashion which made it clear that it held jurisdiction in the offshore. However, the Government of the Northwest Territories resisted such a wording. This legislative power could assist it to accomplish territorial economic goals in the future. More immediately, it anticipated that if the arrangements for creating Nunavut included the symbolically powerful loss of its claim to offshore jurisdiction, it would be all the more difficult to generate necessary support for Nunavut in the western NWT.

The Government of the NWT also felt that it was inappropriate to use the occasion of division to resolve a question which was peripheral to the creation of Nunavut. The TFN, interested in offshore jurisdiction because of the importance of Arctic waters for Inuit wildlife harvesting, but sensing that the status quo was the best it could hope for, supported the Government of the NWT. In the end, it was agreed to leave this issue to be resolved in the future; the geographical description found in the Nunavut Act does not alter the ambiguity of the Northwest Territories Act.

### 1.3 The Nunavut Political Accord

While some of the issues were only resolved during discussions on the Nunavut Act and others will have to be worked out during the implementation of Nunavut, the consensus required by Part Four of the land claim Agreement was reached in April of 1992. This consensus, the Nunavut Political Accord (Appendix Two to the study), contains a substantial number of commitments including the following:

- While not specifying a date for the presentation to Parliament of the legislation, the Accord repeats the commitment that this would occur at the same time as the tabling of the Inuit land claims settlement legislation.
- Nunavut will come into existence no later than April 1, 1999; transitional steps leading to the creation of Nunavut will occur before that date.
- The Nunavut Government will be vested with full legislative powers when it begins to function, but will only have a limited administrative capacity. The Accord anticipates that this "core administrative capacity" will enable the new Nunavut Government to:

"(i) establish and maintain a Legislative Assembly and Executive Council;  
(ii) manage the financial affairs of Nunavut;  
(iii) secure independent legal advice for the Government;  
(iv) undertake personnel recruitment, administration and training for and of government employees;  
(v) maintain certain aspects of public works and government services; and  
(vi) support municipal affairs; and  
(vii) provide adult education programming as part of a comprehensive human resource development plan."  
(Part 7.1)

Functions the new government cannot initially perform will be "...discharged through intergovernmental agreements or contracts with appropriate governments, public institutions or non-governmental bodies." (Part 7.2)

- The Nunavut Government will exercise the same general span of powers currently held by the Government of the Northwest Territories.

- A Nunavut Implementation Commission (described below) will advise on the transition process.

- Nunavut "may" and the western territory "shall" receive financing from the Government of Canada on the basis of a formula "analogous" to what currently exists for the NWT. The difference in wording reflects the possibility that Nunavut, particularly early in its life, may require unique fiscal arrangements.

- Federal funding will be provided at levels which will "provide both territorial governments the opportunity to continue to provide public services for residents, recognizing the existing scope and quality of such services". (Part 8.5) The Government of Canada will pay for the "reasonable incremental costs" of creating and operating Nunavut. These provisions reflect intense negotiations. For example, the federal limit of incremental funding to the two territories to what it considers "reasonable" is a careful balance between its determination to limit its

financial obligations arising out of the creation of Nunavut and the northern need for adequate funding. Similarly, the wording on formula financing commits the Government of Canada merely to take note of the existing scope and quality of territorial government services, but not necessarily to funding these levels of services. - Training will be a critically important part of the preparations for Nunavut.

- The territorial laws in existence on April 1, 1999 will continue in force in Nunavut until altered or revoked by the Legislative Assembly of Nunavut.

While these principles express areas of agreement among the three parties, they also represent the matters on which it was felt necessary to define agreement. As such, they signal issues which are likely to arise during the process of planning for the implementation of Nunavut.

On May 4, 1992 a territory-wide plebiscite on the boundary for division was held; 57% of eligible voters participated, 54% of whom voted in favour of the proposed boundary. As had been the case in the 1982 plebiscite, support was very heavy in the Nunavut region, while the West failed to support the boundary and, implicitly division, itself. Nonetheless, a majority voted in favour, thus satisfying the Government of Canada's requirement that there be support for the boundary among northerners. With the removal of the obstacle to division that the boundary represented and the guarantees contained in the Nunavut Political Accord, the Inuit ratified the land claims Agreement in November of 1992 by a wide margin; 85% of the Inuit who voted (69% of all eligible voters) approved the proposed settlement.

True to the commitment it gave in the Accord, on May 28, 1993 the Government of Canada simultaneously tabled the Nunavut Act



and the Nunavut Land Claims Agreement Act in the House of Commons. Both acts were quickly approved by Parliament. Because these acts together define the policy environment within which planning for Nunavut will take place, they will be described in some detail.

#### 1.4 Provisions of the Nunavut Act

The Nunavut Act accomplishes two tasks. the first is to describe the basic structures of the Nunavut government. The second is to provide a transitional process for the creation of Nunavut. Regarding the first task, the Nunavut Act will create a government that closely resembles the territorial regime out of which it will be fashioned. The Act provides for a Commissioner; a Legislative Assembly with the full range of powers exercised by the present Legislative Assembly of the NWT, subject to disallowance by the Governor in Council; and the establishment of a Supreme Court of Nunavut and a Court of Appeal of Nunavut. This institutional continuity reflects the longstanding Inuit approach to this question, an approach intended to give comfort to those who might have been daunted by the unfamiliarity of a set of novel institutions. However, the Act is drafted at a level of generality which will permit the Legislative Assembly considerable room to develop administrative structures that will accommodate the particular needs of Nunavut and to adjust its organizational format without being required to obtain approval by Parliament. The resulting flexibility should facilitate the administrative experimentation in which the new government of Nunavut will need to engage. It should also encourage the development of governmental forms particularly appropriate to the needs of the residents of Nunavut. For example, the strength of local governments or the degree of decentralization of the territorial

public service may diverge significantly from what obtains in the Yukon or the present NWT.

The Act also establishes the machinery for creating the new government of Nunavut. The system provided is a complex one. It must recognize both the real political interests of a number of parties and the fact that they do not all share the legislative jurisdiction to implement Nunavut, which is exercised solely by the governments of Canada and the Northwest Territories. The heart of the system is the Nunavut Implementation Commission, described in Part III of the Act. Section 55.1 provides that its Chairperson will be "appointed on the recommendation of the Minister of Indian Affairs and Northern Development with the agreement of the government leader of the Northwest Territories and of the Nunavut Tunngavik." (This organization succeeded the Tungavik Federation of Nunavut in 1993, largely in order to accommodate a broader representation of Inuit interests in the organization's formal structures. The main mandate of the Tunngavik is to implement the Agreement. The spelling of its name was altered by the addition of a second n in mid 1993). Of the Commission's nine other members, "three shall be appointed from a list of candidates supplied by the government leader of the Northwest Territories and three from a list of candidates supplied by Tungavik." (Section 55.2) Further, Section 56.1 stipulates that at least six members of the Commission shall ordinarily be resident in Nunavut. This formula does not guarantee that a majority of the members of the Commission will be committed to Nunavut. However, it makes such an outcome very likely. Respondents interviewed for this study reported that the TFN and the two governments felt comfortable with this composition for the Commission because of the trust which had developed among them during the negotiations leading up to the Nunavut Political Accord and the Nunavut Act.

It should be noted that the role of the Commission is to advise the two governments and the Tunngavik concerning preparations for Nunavut and in particular the following topics:

- "(a) the timetable for the assumption by the Government of Nunavut of responsibility for the delivery of services;
- "(b) the process for the first election of the members of the Assembly, including the number of members and the establishment of electoral districts;
- "(c) the design and funding of training programs;
- "(d) the process for determining the location of the seat of government of Nunavut;
- "(e) the principles and criteria for the equitable division of assets and liabilities between Nunavut and the Northwest Territories;
- "(f) the new public works necessitated by the establishment of Nunavut and the scheduling of the construction of the works;
- "(g) the administrative design of the first Government of Nunavut;
- "(h) the arrangements for delivery of programs and services where the responsibility for delivery by Nunavut is to be phased in...." (Section 58)

Three agencies will have the authority to implement the Commission's recommendations. The governments of Canada and the Northwest Territories will decide on the implementation of recommendations which fall within their respective areas of jurisdiction. The Act also provides for the an Interim Commissioner of Nunavut who will act on behalf of the Government of Nunavut before it becomes operational. This device will enable administrative systems and processes to be defined, jobs to be described, recruitment of staff to be undertaken and agreements to be completed with governments and non-governmental agencies to ensure the uninterrupted delivery of services in Nunavut, all in advance of the actual formal establishment of the government of Nunavut in 1999. While actions undertaken by the Interim Commissioner, with the exception of personnel

appointments, can be revoked by the Government of Nunavut once it becomes operational, it is obvious that the office of the Interim Commissioner will play a critical role in the preparations leading up to Nunavut. The choice of Interim Commissioner will be critical to the successful transition to Nunavut.

Expressing the principle of Part 7 of the Nunavut Political Accord, the Act provides for the phasing in of the administrative responsibilities of the Nunavut government. While it will enjoy the full range of territorial legislative authority at the moment it comes into existence, it will not be able to deliver the full range of governmental services immediately. For this reason, the Act anticipates that agreements will be reached with the Government of the Northwest Territories, provincial governments and non-governmental agencies to provide certain services until the Government of Nunavut is prepared to provide them itself.

#### 1.5      The Nunavut Land Claims Agreement Act

This act is the essence of simplicity. Its major operative content is contained in Section 4, by which "The Agreement (between the Inuit of the Nunavut Settlement Area and the Queen in Right of Canada) is hereby ratified, given effect and declared valid." Therefore, an understanding of the Nunavut settlement must be obtained from the Agreement itself.

The objectives which underlie the Agreement are:

"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;

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

These principles establish the Agreement as much more than a real estate transaction. Rather, it is also an attempt to secure Inuit access to their traditional land and water-based harvesting economy and to provide for their future well-being as a people. These objectives provide a standard against which the success of the Agreement can be measured and which can be called upon should the Inuit feel that government is not properly fulfilling its obligations in implementing the Agreement.

As with other contemporary aboriginal claims settlements, the Nunavut Agreement contains provisions dealing with land and financial matters. As a result of the Agreement, designated Inuit organizations will hold title to approximately 350,000 square kilometers of land within the Nunavut settlement area. Of this land, the Inuit will hold the surface and subsurface mineral rights to about 37,000 square kilometers (Article 19). After 14 years have elapsed, the Inuit will have received capital transfers of \$1.148 billion. This sum represents five million dollars in advance payments already received and \$1.173 billion in annual payments less almost \$40 million in repayments of loans by the TFN to cover its negotiating costs (Article 29). In addition, Article 25 of the Agreement provides that the Inuit will receive 50% of the first two million dollars of resource royalty received by Government each year and 5% of all additional annual resource royalties.

In a very important sense, the Agreement's provisions for Inuit involvement in decisions concerning land, water, resources

and wildlife harvesting form its heart. The success with which these provisions are implemented will determine the extent to which the Inuit will be able to control the future of the wildlife harvesting economy. The provisions establish a set of joint management boards. The Nunavut Wildlife Management Board exemplifies the features which these boards share. It will have a mixed composition, representing the agencies which have interests in its jurisdiction. Four members will be appointed by Inuit organizations. Three will be appointed by the Government of Canada and one by the Government of Nunavut. The Government of Canada will appoint the chairperson from nominations provided by the NWMB. The NWMB will perform a number of functions related to regulating access to wildlife on the understanding that "...Government retains the ultimate responsibility for wildlife management...." (Article 5.2.33). For this reason, before NWMB decisions take effect they require the approval of the relevant federal or territorial (depending upon the species of animal in question) minister. It is a very important element of the balance of power between the Inuit and government that, in the case of the NWMB, but not of the other boards, ministers do not enjoy unlimited discretion to reject Board decisions. The only grounds on which they can do so are conservation of species, international agreements, the rights of other aboriginal harvesters and public health and safety. If the relevant minister does not respond within a fixed time limit (30 days for the territorial minister and 60 days for the federal minister), approval will be deemed to have been given. If this approval is not forthcoming, the minister states the reasons for this decision. The NWMB can reconsider the matter and issue its final decision, but the ultimate authority rests with the Minister. The ability of the NWMB to make public its final decisions (but not the earlier steps in the process) and the right of individual

Inuit to seek a judicial review of decisions which materially affect them will give the Board some means to bring public pressure to bear on the minister, but in the final analysis, the NWMB's power is contingent on ministerial support.

While the details differ in light of their different responsibilities, the carefully balanced composition and subordination to ministerial authority of a number of key joint-decision-making bodies resembles these traits of the NWMB. These bodies include the Nunavut Planning Commission, responsible for the development of regional land use plans for Nunavut, and the Nunavut Impact Review Board, which will determine whether project proposals require a review; if so, review the socio-economic and environmental impacts of project proposals; make recommendations to the appropriate minister and monitor projects which are approved. The Nunavut Water Board, which will regulate the use and management of water in the Nunavut Settlement Area, will be composed of equal numbers of appointees of Inuit organizations and of governments, as is the case with the other boards. However, its decisions will not be subject to ministerial review.

These wildlife, land and resource management agencies represent the fullest measure of self-determination and political control over important aspects of their lives which the Inuit were able to accomplish within the claims settlement itself. The great advantage of providing for these agencies through the land claims process is that they are protected under Section 35 of the Constitution Act, 1982. As a result, government cannot close or alter these agencies without Inuit approval, although it can unilaterally consolidate them for administrative purposes. However, it will play a very powerful role both on the boards and in deciding how to respond to their decisions.

## (2) Nunavut and the Nunavut Claims Agreement: A Seamless Web

It is partly for this reason that the Inuit have insisted that the settlement of the Inuit claim and the creation of Nunavut are two parts of an indivisible whole. They have held to this position because one of their primary objectives has been to ensure that the wildlife harvesting economy which has been the wellspring of Inuit tradition remains a real and viable option for Inuit to pursue in the future. While not all Inuit will choose to pursue a wildlife harvesting career, this option must be available for those who do so and as a reference point to invigorate the traditional values of Inuit culture. Moreover, given the importance to the Inuit of wildlife harvesting and their attachment to their lands and waters, they logically see control over wildlife and the environment as a central element of their self-determination.

To gain this control, the Inuit need both property rights and legislative authority. The claims Agreement provides the former and Nunavut provides the latter. Together, they should foster the integrated system of planning which is a prerequisite for successful resource management. The joint Inuit-government agencies which the Agreement creates to manage wildlife and resources demonstrate this necessary linkage between the claim and Nunavut. Other factors such as markets aside, wildlife harvesting will remain a viable option in the future to the extent that these agencies do two things. First, they must manage the environment in a fashion that sustains animal populations. Second, they must manage the stocks of wildlife in ways which ensure that the Inuit have access to sufficient animals to meet their needs. The Inuit view the existing governments as potential threats to the attainment of these goals. Both the Government of Canada and the Government of the Northwest Territories seek



to promote non-renewable resource development in the North. While they have also committed themselves to protecting the northern environment and wildlife, the constellations of interests to which they must respond compel them to strike a policy balance between the non-renewable resource and wildlife harvesting economies that favours the former more than an Inuit-dominated government is likely to do.

The provisions of the Agreement for environmental and wildlife management give governments three opportunities to pursue their preferences. The first of these is the decision-making process of the joint agencies. As equal numbers of Inuit and governmental representatives will sit on these agencies, the latter will be well placed to frustrate the policy preferences of the former, should they wish to do so. While the Nunavut Wildlife Management Board, Nunavut Water Board and Nunavut Impact Review Board have subpoena powers which will give them considerable access to information, government members of these boards may still have the advantage of being able to draw on more of their own scientific and legal expertise than can the Inuit. Unless the Inuit can be assured that at least some of the governmental members of these agencies support Inuit goals, the outcome of issues which pit non-renewable resource development against the interests of Inuit wildlife harvesting will be, at best, unpredictable. The creation of Nunavut will give them this assurance.

Government can also control environmental and wildlife management processes through the ministerial power to review, and to accept, modify or reject the decisions of the agencies established under the Agreement. The simple device of division will ensure that when decisions are referred to a territorial minister, that minister has been elected by and is accountable to the people of Nunavut, hence should be particularly sensitive to their needs. Regarding matters which fall within their

jurisdiction, ministers of the Government of Canada are likely to subordinate the regional needs of Nunavut to the national interest of Canada when they review decisions of a Nunavut board. While the Inuit must accept this reality in the short term, they hope that jurisdiction over land and resources can be transferred to the Government of Nunavut as soon as possible. This step should lead to a revision of the Agreement that would reduce, but not eliminate completely, the role of the federal government in Agreement-based regulatory agencies and in ministerial review of the decisions of these agencies. Even if the Nunavut government will have to contract out program delivery, this devolution will increase the control over the environment that the Inuit enjoy as a result of the claims Agreement while, of course, preserving the role which the Government of Canada exercises everywhere else in Canada.

Division should also enhance the cultural sensitivity of territorial government agencies in providing services to and in implementing decisions reached by the Nunavut wildlife, land and resource management agencies. For example, while the Nunavut Wildlife Management Board has the authority to make a variety of decisions, the implementation of these decisions on the ground is the responsibility of the territorial government. Governments and their employees enjoy substantial discretion as to the vigour with which they will implement directives and the preconceptions that will colour their administration. For this reason, it will be more likely that the objectives that Inuit seek through these agencies will be realized if their decisions are implemented by a government that is focused on Inuit needs and has hired and trained its employees to be particularly sensitive to these needs.

There is only one way for the Inuit to be sure that the decisions of these agencies, territorial ministerial review of these

decisions and governmental implementation of them will contribute as positively as possible to the viability of the wildlife harvesting option and to the health of the lands and waters of Nunavut. This is for the territorial government to be controlled by the Inuit, particularly once jurisdiction over land and resources is devolved from the Government of Canada to the Government of Nunavut. The only way that this can be accomplished using a public government model is by creating the territory of Nunavut.

There are, of course, other reasons for creating Nunavut. It will acknowledge in powerful symbolic terms that the Inuit are a people, a First Nation, deserving of a homeland and self-determination within it. It should provide more accessible and culturally sensitive government. It will provide a significant number of job opportunities for Inuit workers. It will guarantee Inuit a role in all federal-provincial-territorial processes, not just those which related to Aboriginal issues. However, while these outcomes are desirable, they do not logically link the settlement of the land claim and the creation of Nunavut. These goals could be satisfied if Nunavut came into being independent of the settlement of the claim. The reasons the Inuit have rejected this approach are twofold. The first is the need to ensure the effectiveness of the joint management institutions which lie at the heart of the settlement. The second is the tactical calculation that the Government of Canada has a much greater interest in the settlement of the Inuit claim than it does in the creation of Nunavut. If the claim were settled before the Government of Canada made a firm commitment to Nunavut, then the Inuit would have lost their major bargaining lever--their ability to refuse to settle their claim. With their bargaining power gone, it is not at all certain that the Inuit would have been able to cause the

Government of Canada to agree to create Nunavut. For this tactical reason as well as for the fundamental reason outlined above, the creation of Nunavut and the settlement of the claim have been, and have had to be, inseparable parts of the seamless web of the Inuit vision of their future.

(3) Nunavut: A Unique Case of First Nations Self-Determination

Several features of the Nunavut situation make it unique within Canada. It is very likely to be the only public government in Canada which has all of the following characteristics:

- 1) the broad span of powers enjoyed by provinces and territories, powers critical to the social, cultural and economic well-being of First Nations;
- 2) jurisdiction over a sufficiently large area to be able to provide effective wildlife and resource management;
- 3) election by and accountability to a public which is predominantly composed of native people;
- 4) likely to depend on a largely native electorate into the distant future so that a First Nation could plan its institutional future on this assumption with reasonable confidence and
- 5) enjoys a promise of fiscal arrangements with the Government of Canada which will take into account the cost of providing existing levels of government services.

Elsewhere in Canada, First Nations may predominate in certain sub regions of provinces or territories. However, these sub regions, such as the northern portions of the prairie provinces, tend not to have their own institutions of public government, institutions which First Nations could dominate through the ballot box. Where, as in northern Quebec, such institutions exist, they tend to lack the span of jurisdiction and the anticipated financial strength of Nunavut. However, it is

possible that Nunavut could provide a model for strengthening the public government institutions of northern Quebec. The concept of a "First Nations province" has been proposed. Such a province would differ from Nunavut in that it would be formed of a large number of relatively small, non-contiguous areas spread out across Canada. This arrangement would not provide an effective base for wildlife and resource management. Moreover, such a jurisdiction would be a First Nations, not a public government. This would cause its relations with the Government of Canada to differ from those of the public government of Nunavut. For example, as a province, it would have constitutional protection which Nunavut will not enjoy. A First Nations province would also face a somewhat different set of issues, such as membership and eligibility, than will the government of Nunavut. Also, it would legislate for an exclusively aboriginal population, whereas the Nunavut government will have to balance the interests of its non-aboriginal and aboriginal citizens. Finally, it would have to manage relations with the provincial governments which have responsibility for the lands surrounding First Nations lands and for the provision of some services, such as advanced medical care or specialized educational programming, to which First Nations might wish to have access. Nunavut, operating under a single-government system, will escape most of the resulting complexities of intergovernmental negotiation. It will confront these issues, however, to the extent that it wishes to contract services from adjacent governments or from other agencies.

The Inuit of the Nunavut have decided that public government is the best approach for enhancing their self-determination. At the same time, the fact that Nunavut is a public and not a First Nations government means that, should they come to feel that a First Nations government will serve them better, for

example if large scale immigration into Nunavut erases their advantage at the ballot box, they will retain this option. Of course, the cost and difficulty of moving to such a form of government will be substantial. For this reason, it is very unlikely that such a drastic set of circumstances will arise that the Inuit would seek to govern themselves outside of the Government of Nunavut. Still, because they have not "played the self-government card", it still remains in their hand. In contrast, First Nations elsewhere in Canada that have pursued self-government do not have a fallback position other than seeking changes in the policies of Canada concerning First Nations self-government.

The Inuit land claim settlement and the creation of Nunavut reflect the unique circumstances of the Inuit of the central and eastern Arctic. With the possible exception of northern Quebec at some time in the future, no other First Nation in Canada has the opportunity to pursue its future as a First Nation through the vehicle of public government. This being the case, other First Nations can draw inspiration from the Nunavut experience. They can benefit from the organizational, training, fiscal and other lessons the Inuit learn as they breathe life into Nunavut. However, they cannot adopt its fundamental logic of a First Nations dominated public government as the basis on which they will pursue self-government.

#### (4) Preparing for Nunavut

##### 4.1 The Stages in the Process

The preceding historical sketch shows that the Nunavut process has passed through several stages. In a similar fashion, the preparations for the implementation of Nunavut will involve a series of phases. In 1992, Coopers and Lybrand Consulting Group

prepared a study for the Government of Canada of the costs of creating Nunavut. In order to anticipate these costs, the study applied a number of assumptions about the process, assumptions which drew upon discussions with the major stakeholders. This consultation makes the study's approach to the sequence of stages for the development of Nunavut particularly plausible.

While the study includes a plan for a complete transition by 1999, the bulk of its analysis is based on a transition period that, for reasons which will be described below, extends to the year 2008. Coopers and Lybrand identified five stages that will occur during this the Nunavut development process. As the first of these was anticipated to begin in 1992 but is only about to begin in the second half of 1993, and as unforeseen developments can occur, the dates which define the stages and the length of the stages are approximations. Also, of course, the stages of this, or any plan, can be expected to overlap. The stages (depicted in Figure One) are:

(i) The Establishment of the Nunavut Implementation Commission  
1992

During this phase, the members, executive director and senior staff of the Commission will be appointed; data gathering undertaken; discussions begun with the Government of the Northwest Territories; and a close working relationship developed between the NIC and the MLAs from the Nunavut area.

(ii) Detailed Planning 1993

This phase will involve highly detailed planning of such issues as the personnel, information technology, legislative and capital needs related to the core functions of the Nunavut government. These functions, the ones intended to be fully operational in 1999, include finance, human resources, justice

and intergovernmental affairs, the Legislative Assembly and the Executive Council. Also, planning will begin regarding the programs for which the Government of Nunavut will assume administrative responsibility in the period 1999 to 2008. First steps will be taken toward arrangements with agencies other than the Government of Nunavut to provide for the continued delivery of these services and, where appropriate, for some tasks to be assumed by the Government of Nunavut.

(iii) Core Building and Consultation     January 1994 to April 1999

This phase will operationalize the plans established in phase two. The core institutions will be created. After community leaders are consulted about the approach anticipated for service delivery after 1999 and planning is modified on the basis of this consultation, arrangements will be negotiated with the agencies which will be delivering the services.

(iv) Core Implementation and Program Transfer     April 1999 - 2004

During this phase, the Government of Nunavut will begin to operate and to be fully responsible for the delivery of all services, although other organizations will actually deliver the services. The Government will make arrangements to deliver itself the programs which Coopers and Lybrand refers to as "medium term transfers": education, culture, capital works and northern development.

(v) Program Transfer     2004-2008

Arrangements will be made and implemented for the Government



of Nunavut to deliver its remaining programs, the "longer term transfers"-- social services and health.

The details of the stages by which Nunavut is created may diverge from this model, but the extent of the divergence is unlikely to be great if the process is to unfold successfully.

#### 4.2 The Challenges in Creating Nunavut

During this process, those laying the groundwork for Nunavut will face many challenges. It is possible to anticipate a number of the challenges and to offer recommendations as to how they might best be addressed. This report will examine the issues of process; planning principles; balancing continuity and change; organizing the Government of Nunavut; relationships among public governments in Nunavut; personnel and training; financial arrangements; international capability; the role of Inuit elders; gender; Inuit youth; provisions for the new western territory; selecting the capital for Nunavut; and jurisdiction over land and resources.

##### (i) The Process

Process is a very significant determinant of outcome. For Nunavut to be responsive to the wishes of the people it will govern, legitimate in their eyes and coherent in its structure, the process which will fashion it must manifest the same characteristics. These will prove difficult to obtain in part because of the number of agencies and groups involved in the process. These include the two existing governments, the Tunngavik, the Nunavut Implementation Commission, the Interim Commissioner and the members of the Legislative Assembly from

the Nunavut area.

Clearly, there must be a focus for planning Nunavut and this focus must have the respect and cooperation of all those planning for Nunavut. The Nunavut Act acknowledges the authority of the two existing governments to take actions within their respective spheres of jurisdiction to prepare for the creation of Nunavut. It also empowers the Interim Commissioner, who takes instruction from and is responsible to the Government of Canada, to take the executive actions which will bring the Nunavut Government into existence. In contrast, the role of the Nunavut Implementation Commission is only advisory to governments. However, it is only the Nunavut Implementation Commission which formally brings together representatives of the two governments and of the people for whose benefit Nunavut is being created. The breadth of the representativeness of the NIC makes it likely to be the most legitimate and responsive focus for implementation planning. After all, while the Government of Canada will be attentive to important national interests in the creation of Nunavut, it should also appreciate that the people of Nunavut deserve to have a government that, within the general constitutional principles of Canada, they can recognize as embodying their values. To the extent that it does, they are likelier to grant it the legitimacy which will enable it to take root among them and to govern effectively.

The Government of Nunavut will not be designed by a constituent assembly and there will not be a referendum on its structure (beyond the approval implicit in the plebiscite approving the boundary and in the ratification of the claims settlement, after the Nunavut Political Accord was made public). These arrangements place the construction of Nunavut at some distance from its people at a time in Canadian history when public involvement in constitutional processes is coming to be seen as very important

for their success. While the NIC will certainly not be an exercise in popular democracy, it will be intimately connected with the people of Nunavut. Containing representatives of the Tunngavik and of the Government of the NWT, which will continue until 1999 to represent the people of Nunavut, it is certainly closer to the people than the Government of Canada is. Given that the Tunngavik does not represent non-Inuit people in the Nunavut area, hence cannot serve as a constituent assembly, and that the need for coordination requires that the two governments be intimately involved in the planning of Nunavut, the NIC is the appropriate focus for the creation of Nunavut.

These considerations lead to the recommendation that the Government of Canada should give the fullest possible support to the NIC. It should recognize that while the Commission is appointed, the extent of its northern composition gives it considerable legitimacy as a representative body. It should faithfully honour its commitment to give the greatest possible weight to the advice it receives from the Implementation Commission. It should respect the independence of the NIC and avoid the temptation to colonize or manipulate the NIC or to transform it into an agency of the federal government. It should also instruct the Interim Commissioner to work as closely as possible with the NIC in order to promote mutual understanding and support. It should instruct its departments to make their resources available to the fullest reasonable extent to the NIC should it require technical assistance from them. While receiving opinions from individuals and groups with particular interests in the creation of Nunavut, it should refer these parties to the NIC. In this way it will reinforce the NIC's effectiveness and its stature as the focus for the planning of Nunavut.

The Government of Canada must adequately fund the NIC to perform its task. This funding should enable the NIC to undertake

an active program of community consultations beginning very early in its mandate to gather ideas from people in the communities as to the basic principles which should guide the design of the Government of Nunavut. Section 59 of the Nunavut Act provides that the NIC will inform Nunavut residents of its activities. This one-way communication is inadequate; it does not sufficiently involve the people of Nunavut in the design of their government. The Tunngavik will certainly be able to provide important information about the views of Inuit. However, its predecessor, the TFN, was preoccupied with negotiating the Nunavut Agreement and gaining governmental commitment for the creation of Nunavut. It does not appear to have canvassed the Inuit intensively concerning such questions as the appropriate division of responsibility between the community and territorial levels of government, the appropriate degree of administrative decentralization for the Nunavut Government or principles of decision-making within it. Moreover, it cannot represent the views of non-Inuit on such questions. There remains much work to be done if the views of Nunavut residents are to play a sufficient role in the design of Nunavut and if they are to feel that they have been meaningfully involved in its design. Radio and television programs will need to be prepared and broadcast and community meetings and school visits organized, conducted and their results interpreted. The Tunngavik may wish to undertake much of this communication activity. It would be better if this consultation were conducted by the NIC or by the two bodies jointly. One reason is that the Tunngavik will be preoccupied with implementing the Agreement. Moreover, it will be the NIC that will be formally advising the existing governments. It may need to call upon the people of Nunavut to support it should governments balk at accepting its advice. The people of Nunavut are likelier to provide this support if

they are familiar with the NIC and believe that the NIC's community consultations have given them some real ownership of its process and its recommendations. An NIC community consultation process will have the added advantage of exposing the representatives of the two governments to the reality of Inuit desires, rather than learning of these second hand through the Tunngavik. The powerful education gained by direct exposure to community views should assist the representatives of government to appreciate the arguments which the Tunngavik will advance in the NIC. This should encourage unity of purpose within the NIC. While the three sets of representatives will continue to advance the interests of the agencies they represent, the shared experiences gained during community consultations should contribute to a convergence of views among them, thus facilitating the work of the Commission.

In summary, the more fully the Government of Canada supports the Nunavut Implementation Commission, the more successful the preparations for Nunavut are likely to be.

While it is an obvious point, it is sufficiently important to deserve mention that the NIC should develop a close consultative relationship with the present members of the Legislative Assembly representing the Nunavut region. Early in planning for the implementation of Nunavut, it was suggested that the Nunavut caucus might serve as a sort of "Nunavut government in waiting" and have a formal role in planning activities. It was also suggested that MLAs from the Nunavut area might represent it on the Nunavut Implementation Commission. While neither of these suggestions has been adopted, they demonstrate the widely recognized relevance of Nunavut MLAs to the Nunavut process. These members have a great deal of insight to share with the NIC. Also they have an important role to play in encouraging the Government of the Northwest Territories to

act on the advice it receives from the NIC and to make the compromises which will have to be made to ease the creation of Nunavut. They will obviously be better able and more motivated to do so to the extent that they have played a significant role in the development of that advice and, as a result, have a full appreciation of the rationale which underlies it.

#### (ii) Planning Principles

While 1999 seems far in the future, it is not a long time to create a government. Some of the stages in the creation of the Nunavut government will have very significant lead times. For example, the design, tendering and construction of public buildings are time-consuming processes. Similarly, designing administrative systems, formulating job descriptions and hiring and training employees will take time, particularly when the local labour pool is intended to provide many of the government's workers, but is deficient in the skills which government employment requires. Moreover, previous transitions offer few lessons for the present. The 1905 creation of the present NWT occurred in an era when government programming was minimal, hence required minimal planning of new administrative structures. The relocation of the territorial government to Yellowknife in 1967 involved more administrative planning, but this planning still addressed a much smaller government with far fewer responsibilities than is anticipated for Nunavut. Also it did not pursue aboriginal employment as one of its goals. Probably the process which offers the most useful lessons to the NIC is the succession of devolutions of authority from the federal government to the Government of the NWT. The major issues in these transfers involved financial terms, personnel policy and legislative and administrative continuity. (Dacks: 1990) The NIC

will benefit from reviewing the devolution experience in these areas. However, the task it faces will be more complex in that it must not only plan for the transfer of powers but also create a new legislature and executive, promote the training and hiring of Inuit for jobs in the Nunavut government and, as much as possible, integrate the creation of Nunavut and the implementation of the claims Agreement. While it can draw somewhat on the lessons of the past, the NIC will be challenged by the pressure to make important decisions early in its operation. To facilitate the transition to Nunavut, it will have to observe several planning principles.

The first of these is simply to do first things first. Before detailed planning can be begun, agreement must be reached on the basic principles which will guide that detailed planning. These principles include the extent of decentralization of the Nunavut public service, the division of authority among the community, regional and territorial levels of government and the appropriate balance between institutional continuity and redesigning government to put a distinctive Nunavut stamp on it. Regarding these and other basic questions, it will be important for the NIC to avoid being rushed by the weight of the subsequent decisions it will have to make. Before it proceeds to make later decisions, the NIC must consult widely with Nunavut residents on the prior questions, decide upon its recommendations and confirm their acceptability to the people of Nunavut and to the two governments which will be called upon to implement recommendations based on them. This rigour early in the process should minimize costly and time-consuming revisions of planning at later stages.

Of course, one way to reduce the pressure of time is to create

Nunavut in stages, a device for which the Political Accord and the Nunavut Act provide. As reported above, the 1992 Coopers and Lybrand study assumed for planning purposes that the transitional period would extend until 2008. This approach has a great deal to recommend it. First, the task of establishing the core administrative functions of the new government will undoubtedly tax to the full the resources of the existing governments, the NIC and certainly the Tunngavik, which will also be preoccupied with the implementation of its settlement. Second, the more details of the creation of Nunavut are delayed past 1999, the more the government of Nunavut, the democratically elected representative of the people of Nunavut, will be able to make important decisions concerning the delivery of services and the structure of its public administration. Third, delaying the assumption of Nunavut responsibility for the delivery of services will give additional time to educate and train local residents. More than would otherwise be the case will be eligible for employment with the Government of Nunavut and the need for jobs to be filled by outside workers will be reduced. In this way, the creation of Nunavut will be more effective in reducing unemployment among its residents. Only the future can tell the appropriate date for the Government of Nunavut to assume responsibility for the delivery of all services under its jurisdiction. It should be confirmed that this decision rests with the Government of Nunavut and that the Government of Canada will support any decision which the Government of Nunavut reaches in this matter.

The creation of Nunavut will be an extraordinarily complex task. New administrative systems will take shape at the same time as the delivery of services must continue uninterrupted. Nunavut institutions and relevant provisions of Inuit claims



settlement must be integrated. Existing personnel must be treated fairly. Labour force issues cannot be taken for granted as they could be in southern Canada; planning must both be guided by the scarcity of skilled Nunavut-based workers and also work to increase their availability. As will be discussed below, the government of the new western territory must not be overburdened as a result of the transition to Nunavut. Overarching all of these challenges will be the limitations of the finances available to create Nunavut.

These complexities suggest that all of the parties to the planning of Nunavut build as much flexibility into their planning as possible. Thus, as much as possible, they should view their decisions as part of an experimental process (Abele in Dacks, 1990: 305-8). For example, systems should be designed to provide ample feedback on performance. Turn around times and the frequency of appeals from administrative decisions should be monitored. Legislation should be passed protecting public servants who identify problems in the administrative processes in which they participate. Advisory groups of program clients or sectoral advisory bodies might be established. Less expensively, existing groups might be actively solicited for their views on administrative performance and MLAs could be encouraged to monitor government operations in a more way than is usually the case. To take advantage of this feedback, the Government of Nunavut should be designed in ways which make it as easy and inexpensive as possible to make adjustments and corrections based on lessons learned from experience. In the early years, it may be appropriate to offer prospective staff fixed-term, renewable contracts rather than a more open-ended form of job tenure. It may prove desirable to rent as much equipment as possible rather than to rely excessively on purchases. It is likely that experience with Nunavut programs

and administrative structures will cause these to change considerably in the early years. It makes sense to design a physical plant for Nunavut which can accommodate this learning process. This suggests that, to the fullest extent possible, space, including portable structures, should be rented rather than constructed at very high cost. Also, the permanent structures that are built should be designed with a maximum of internal flexibility.

Building flexibility into the design of the Government of Nunavut will ease its creation. This process will be further eased if the NIC and the parties represented on it discourage the residents of Nunavut and others from thinking of the design of the Government of Nunavut as written in stone. If policy is seen as tentative and policy-making is popularly understood to be a learning experience, unreasonable expectations will be avoided. When it proves necessary to rethink decisions or to adjust policy, it will be politically easier to do so.

### (iii) Balancing Continuity and Change

If programming and organizational assumptions are changed at the same time as a transfer of authority occurs, there is a significant risk that the smooth and continuous flow of government services will be disrupted. The Coopers and Lybrand study reflects the concern of both governments and the TFN about maintaining continuity of service delivery:

"Although creation of a new government in the East produces an opportunity to respond to anticipated challenges in new and creative ways, it must be remembered that several levels of government currently exist in this region. Programs operate and services are provided by individuals whose families and careers are linked to existing structures. Large numbers of current residents depend upon government in significant ways.

This reality means transition must be approached not as the development of an administrative structure from a 'clean slate', but rather as the graduate creation of two new organizations from the framework now operating. the overall administrative structure for Nunavut **will not emerge new and intact, but rather will evolve through a series of stages originating in the current reality of government in the North.**" (original emphasis)

(Coopers and Lybrand, 1992, 7)

Inuit pragmatism and interest in availability of effective government services in the communities will give them considerable sympathy with this approach. However, their desire that the structure and programs of its new government be designed to meet the needs of the people of Nunavut points to a need for some basic planning. The NIC and its member organizations will have to deliberately and explicitly confront the questions of the balance to strike between the principles of continuity and change and of how the transition will be managed to gain the maximum benefits of both.

(iv) Organizing the Government of Nunavut

For example, the Nunavut Political Accord assumes that the system for delivering government services will be a decentralized one (Part 7.3.ii). However, there are several approaches to achieving this and the goal of "an equitable distribution of government activities among Nunavut communities". One option is to locate the head offices of different departments in

different communities. Another is to maintain a modest head office in the capital of Nunavut, in other words to minimize the number of "middle managers" who will link the elected executive of the Government of Nunavut and its field staff and to give staff in the regions a very considerable role in the development of policy. Such an approach would promote sensitivity to the diversity of regional needs and to implementation issues; check the costly growth of the territorial capital; and offer a broad range of government jobs in a number of communities, thus reducing the drain of able individuals from the communities to the capital and the personal and family dislocation which moving to gain employment causes. In contrast, Coopers and Lybrand 1992 places more emphasis on a small number of functional groupings or "mega-departments" each centrally directed from the territorial capital and having program directors in each region. However, this model may not provide for the local sensitivity and accountability which many Inuit may wish to emphasize. Clearly the issue of the best model of administrative decentralization will command a great deal of thought. Whatever approach is adopted, this decision must be taken prior to more detailed planning.

(v) Relationships among Public Governments in Nunavut

In his presentation to members of the Royal Commission in Iqaluit, Saali Peter told them that

" aboriginal people are most familiar and acquainted with social organization at the local community level. It brings public accountability to a very real personal and

accessible level.

" ...I think that the kind of government that we should work out should be based on the community form of government where people who see each other on a day-to-day basis decide for themselves how things should run."

A related theme appears in Building Nunavut Today and Tomorrow, which suggests that regional councils will play an important role in Nunavut. The three regional Inuit associations have grown considerably stronger recently and decision making in the Tungavik gives more formal recognition to regional interests than occurred in the TFN. These changes could anticipate the development of significant regional governments in Nunavut. However, it may also be the case that the Inuit will reject regional government, in large measure out of a wish to avoid the cost of yet another layer of government. It may be that the regional Inuit institutions that implement the claim Agreement will satisfy the impulse of regionalism.

A consensus on the distribution of powers among the local, regional and territorial levels of government was one of conditions which the Government of Canada attached to its support for the creation of Nunavut. While this condition may have been stipulated in the context of debates in the western NWT, it does point to an issue relevant in Nunavut. The Nunavut Act does not include this question in the list of issues that the Nunavut Implementation Commission is mandated to consider. It will have to be addressed, and the sooner the better, because the powers of local and regional governments will help define the role of the Nunavut Government, in ways that will affect personnel and capital planning for it.

(vi) Relationships between Claims-Based Institutions and Institutions of the Nunavut Government

Agencies of the Government of Nunavut and boards established under the claim settlement will both be responsible for the administration of wildlife, land and water. Their responsibilities can be separated in theory in that the claims-based bodies will tend to work at the level of policy and the public government institutions will focus on operational tasks. However, there are significant exceptions to this generalization and it involves a distinction which easily blurs in real life. In order to minimize duplication of effort, make the best use of the limited resources of local labour with the appropriate skills and maximize effective communication, the NIC should foster understandings about the future relations between the two types of bodies. This is another example of the type of decision which ought to be taken before new territorial agencies are designed in detail.

It will also be particularly important to confirm the principle that government should not unilaterally establish additional regulatory bodies to deal with issues that fall within the jurisdiction of claims-based agencies. The point is that claims-based agencies are institutions of public government (Agreement, Article 10.1.1); there is no justification for government to unilaterally create competing agencies which will bleed the claims based agencies' functions away from them.

(vii) Personnel and Training

The Nunavut region urgently needs more employment opportunities. The present high level of unemployment there is one strand of a tightly woven pathology of low educational

attainment and social dysfunction which takes such forms as family violence, substance abuse and conflict with the law. High rates of unemployment burden government with the heavy costs of responding to these problems as well as to the widespread need for housing and social assistance, and limit the tax revenues which can be put to these purposes. A rapidly expanding, young population base will intensify these problems; by substantially increasing the Nunavut labour force in the coming years, it will increase the need for new jobs.

The Nunavut Government promises to provide many of the job opportunities which the Inuit need to put this cycle of dysfunction behind them; the 1992 Coopers and Lybrand study estimates that, once the Government of Nunavut is fully operational, it will employ 1636 workers (Exhibit E-4, page 5). This will be 930 more workers than the Government of the NWT presently employs in the Nunavut region. Indeed, to the extent that some of these jobs are part time or shared by more than one person, the number of workers actually employed by the Government of Nunavut will be greater than these figures. Ironically, Inuit workers may not be able to take full advantage of these employment opportunities and the Government of Nunavut may not be able to lower Inuit unemployment and to develop a culturally sensitive administrative structure. The reason is that while there are many unemployed Inuit who want jobs, relatively few have the training and experience which will make them eligible for employment with the Government of Nunavut. The gap between the Government's need for skilled Inuit workers and the supply of them will be worsened by the fact that Inuit organizations created by the land claim settlement will compete with the government to employ trained Inuit workers.

The Political Accord emphasizes training and human resource planning in order to expand the skill base and employability

of the Inuit work force and thus to enable Inuit workers and the Government of Nunavut to make the best of the opportunities that each presents to the other. It will therefore be most important that Part 9 of the Accord, dealing with training and human resources, remain a focus of planning for Nunavut and that all parties give the training function the fullest possible support. Among other things, this means identifying future labour needs. It means quickly engaging the educational system in at least two tasks. The first is to motivate students to stay in school so as to gain the fundamental skills which will be required in the future as the basis for their training for government employment. The second task is to ensure that educational programming is designed to provide the necessary skills by means of the "pre-employment education, skills upgrading, co-operative education and on-the-job training opportunities" identified by the Accord. Third, as the Accord notes, all planning and implementation of Nunavut should include training as an integral part of their design. Thus, for example, contracts for the provision of services should include a component for the training of local workers. In addition to training workers for jobs, jobs should be designed for the workers available. The qualifications for all jobs should be carefully assessed so as to minimize the extent to which they unnecessarily require skills that few Inuit possess and to give maximum consideration to skills, such as linguistic competence, which Inuit workers can bring to their employment.

By the autumn of 1993, planning for human resource development for Nunavut had begun. The Nunavut Human Resource Planning Committee, an ad hoc committee of agencies, including Inuit organizations and both the territorial and federal governments, with interests in this question, was meeting informally to discuss and promote planning for training for Nunavut. Efforts



were under way to integrate human resource planning for the Nunavut government with the work of the Nunavut Implementation Training Committee, which is planning training programs to meet the needs for personnel to implement the claims Agreement. Only modest progress had been made, in part because fundamental questions about how best to approach training had not been resolved. For example, how much training should take place in the North and how much in the South? How much emphasis should be directed to training for different levels of jobs? One opinion favours training Inuit directly for senior management positions, while another supports training workers for lower and middle-level management and then promoting them to higher levels. To what extent should training focus on the personnel needs of the Nunavut government and to what extent on providing the types of skills that the communities want? How should training effort be split between training for specific job skills as contrasted with general academic skills? How many resources should be directed to support services for trainees? What should be the role of Arctic College in the training program for Nunavut? All of these are issues to which the NIC will quickly have to turn its attention.

Most importantly, the NIC will have to recommend to the Government of Canada the amount of money to be spent on training. Early opinions on this question vary widely. The low estimate is Coopers and Lybrand's 1992 figure of \$8.5 million. A recent study conducted by Atii Training Incorporated on behalf of the Department of Indian Affairs and Northern Development concluded that \$174 million should be spent on training over 16 years. An internal DIAND review of this question identified a need for \$50 million.

All parties can be expected to continue to appreciate the importance of training. However, the Government of Canada will

have only limited funding to allocate to this purpose, as was the case with its response to the training needs associated with implementing the claims Agreement. Opinions vary concerning the adequacy of the \$13 million that it has provided for this purpose. This is a considerable sum of money and was viewed as reasonable by several people interviewed for this study who are associated with the Tunngavik. Others differ, pointing to the very high cost of training in the North, particularly for middle and senior management positions. One person interviewed for this study indicated that the annual cost of a single management trainee in the Nunavut region is about \$100,000. The \$13 million would provide this level of funding for the approximately 130 positions the TFN anticipates will require training, but only if the training program realized a 100% success rate and if only one year of training were required. Moreover, the \$13 million must cover the costs of the Nunavut Implementation Training Committee, including its needs analysis and program development, so that less than the full revenue of the Implementation Training Trust will be available for training activities. On the other hand, not all of the positions for which Inuit will be trained are management positions; the cost of training for these less skilled positions will be less than for management jobs. Also, additional money for training may become available from other sources. These arguments demonstrate the complexity of the funding question. However, they do seem to reinforce the expectation, born of the politics of federal deficit-cutting, that there will be significant shortfalls in funding for training for Nunavut. The Royal Commission should strongly encourage the Government of Canada to accept the NIC's recommendations concerning training and in this way provide a level of support that permits Nunavut to provide the jobs to Inuit that should be one of its greatest benefits.

(viii) Financial Arrangements

It can be anticipated in the present context of government fiscal restraint that reaching agreement on financial arrangements will present one of the greatest challenges for all parties preparing for the creation of Nunavut. Indeed, this topic required intensive negotiation within the Nunavut Steering Committee as it drafted the Nunavut Political Accord.

The Coopers and Lybrand study of the cost of division of the NWT estimates that

"The incremental operating costs (that is the costs over and above what the costs of government in the Nunavut region would be if the NWT were not divided) that will be incurred to sustain the new government structure are estimated to be \$9.6 million in 1992, \$11.6 million in 1999 growing to \$84.6 million per year in 2008.

"....One time costs incurred prior to commencement of full operations are estimated to be \$333.9 million"  
(Coopers and Lybrand, 1992, Executive Summary)

These are very large expenditures. So too will be the costs of implementing several northern claims settlements. The amount of funding that the Government of Canada will be able to allocate to the northern/aboriginal envelope is limited. In light of these predicted costs, it is understandable that the Government of Canada wishes both to have the final say in the financial arrangements for division and to establish principles which put a ceiling on the expectations which the other parties have concerning the amount of funding it ought to allocate to division. Regarding the first of these goals, the situation is clear. Parts 8.1 and 8.2 of the Nunavut Political Accord provide that, while the Government of Canada will consult with the appropriate

parties, it alone shall determine its financial relations with the two new territories. The primacy of the Government of Canada in this regard is emphasized by the fact that the mandate of the NIC fails to include fiscal arrangements in the list of matters concerning which the NIC is to offer advice.

The second goal, constraining spending, will be more problematic as the northern interests in Nunavut are very sensitive to the prospect that the division process will only realize the dreams which animate it if Nunavut is adequately funded. The parties will have to agree on (1) what are "reasonable" incremental costs for creating Nunavut, (2) what is the appropriate configuration of services in Nunavut and (3) what sum of money should be allocated to the base budget of Nunavut to fund these programs. These questions pose very fundamental questions. For example, two of the goals in designing Nunavut are "an equitable distribution of government activities among Nunavut communities" and "employment of local residents in new government positions through strong emphasis on training and work support programs" (Part 7.3) These are desirable goals, but they could add to the cost of Nunavut, depending on how they are pursued. For example, training will be expensive. However a decentralized government emphasizing local employment of trained Inuit will offer economies compared to the costs of a centralized model of government. These would include the costs of attracting employees from the South, building expensive housing and other forms of infrastructure in the capital and the human and fiscal costs of high levels of unemployment in the communities. It will be necessary to find the strategy which best balances the costs and benefits of pursuing these goals.

The Accord recognizes existing services as an important piece of information in determining the operating funding that will be included in the financial base for the Nunavut government.

In a time of retrenchment, this provision gives Nunavut some protection against division being used as a cover for budget cutting on the part of the Government of Canada. However, it will pose problems to the extent that the Tunngavik believes that some programs are insufficiently funded or that their design or underlying philosophy do not respond to the needs of the people of Nunavut. For example, it may be argued that the medical system of Nunavut should devote more resources to preventive health care or more actively involve such Inuit care givers as elders and midwives.

It will be replied that, in the same way that the creation of Nunavut is not an occasion for eroding the level of services which the Government of Nunavut can afford to offer, neither is it an occasion for augmenting them. The argument will be that if Nunavut is to enhance parts of its programming, it will have to shift money internally to accomplish this end. As the Government of Canada is the final authority on funding, its view will carry the day. However, the Tunngavik may well press hard for funding which it feels must be available if Nunavut is to realize the hopes of its people.

A similar debate may develop regarding the principles which underlie the formula used to calculate the annual fiscal transfer from the Government of Canada to the Government of the Northwest Territories. The Political Accord anticipates that the creation of Nunavut may well require this formula be modified. Where the parties negotiating these modifications will differ is their assessment of what changes are necessitated by Nunavut and what changes are required regardless, although perhaps more urgently as a result of the creation of Nunavut. The northern partners in the discussions are likely to urge that the formula be enriched to include the latter category while the Government of Canada may reject this as an attempt to wring concessions from it that

are not meaningfully related to the Nunavut process.

It can be expected that the Government of the NWT and the Tunngavik will press the Government of Canada to shelter the new territories from a number of national policies of fiscal restraint. It is likely that the Government of Canada will continue to restrain the growth of its fiscal transfers to other governments. The questions which will rise are whether and to what extent it ought to exempt the two new governments from the impact of this restraint. Both will be experiencing particular strain during the transitional period and reductions in fiscal transfers could compromise their efforts to manage the transition successfully. The argument may prove especially compelling in the case of Nunavut. While it is not a palatable option, other jurisdictions in Canada can raise taxes to generate significant sums of money to help make up for shortfalls in federal transfer payments because they have relatively large tax bases. In contrast, the tax base of Nunavut will be quite modest. This will particularly limit its ability to compensate for shortfalls in federal funding. A related question will arise when the Government of Canada cuts program funding to provinces and territories. Because of social and economic conditions in the NWT, these cuts may cause much greater harm there than in other jurisdictions. A recent example is the decision to cut Canada Mortgage and Housing Corporation funding for social housing. This policy will greatly reduce the number of dwelling units that the Government of the NWT can build, causing particular hardship for a population which is much more dependent on this source of housing than is the case elsewhere in Canada. To the extent that such national policies cause particular damage to the North and that it will be particularly difficult for the two new governments to sustain such additional burdens while they are establishing themselves, the discussions leading to

the creation of Nunavut are likely to feature requests for exemption from national programs of cost cutting.

It should not require stating, but the sums of money involved are so large that it is important to note that the capital transfers under the Inuit land claims settlement are transfers to the Inuit as a people, not to the public government of Nunavut. They are a one-time only payment intended to compensate the Inuit and to assist them to secure their future as a people. Cooperative, jointly-funded activities between the Government of Nunavut and designated Inuit organizations established as a result of the settlement are possible and desirable. However, Article 2.7.3.c of the Agreement is clear that Inuit continue to enjoy the rights and benefits, including access to government programs, of all citizens. Thus the availability of land claims money must not prompt the presumption that land claims funding can be used to make up shortfalls and provide an excuse for the Government of Canada to limit the amount of money which it will provide to fund the activities of the Government of Nunavut.

Among the fiscal issues surrounding the creation of Nunavut will be the questions of capital costs which resemble those relating to operating budgets. Again, the basic question is what is the proper size and configuration for the Government of Nunavut? The gap among the answers to this question is demonstrated by the fact that the study on division costs commissioned by the Government of the NWT (Coopers and Lybrand, 1991) sets the capital costs at around \$500 million whereas the study commissioned by the Government of Canada identifies this cost as about \$300 million (Coopers and Lybrand, 1992). The difference in these estimates largely reflects the differing views of the federal and territorial governments concerning what buildings and infrastructure will need to be constructed in order to implement division. The Government of Canada can be expected to confine

capital funding to projects which are clearly linked to and essential for division, while northern interests can be expected to also seek funding for projects which will give the Government of Nunavut the capacity to deliver the level and character of programs which they believe it is being created to provide.

A related issue will be the quality of the existing capital stock of the Government of the NWT in the Nunavut region. Every facility will have to be assessed to determine its state of repair and likely life span and a standard agreed upon concerning the appropriate average life expectancy of the governmental facilities being transferred. Should it be decided that these need expensive repairs or that they are close to the end of their useful lives, Nunavut should receive enough capital funding that it will not be unduly burdened with high capital replacement costs in the near future.

In mandating the Nunavut Implementation Commission to advise on "the principles and criteria for the equitable division of assets and liabilities between Nunavut and the Northwest Territories" (Section 58e), the Nunavut Act identifies a complex set of questions. The goal is that there should be a match between the assets and liabilities which each of the new territories assumes when division occurs. Each territory should receive the assets which logically relate to the provision of government services within it. Also, neither territory should be responsible for a liability relating to an asset which the other territory enjoys. For example, presumably, ownership of the housing units in the Nunavut area currently owned by the Northwest Territories Housing Corporation will be transferred to the Nunavut Government or an agency it will create. To the extent that the Housing Corporation, an agency of the Government of the NWT, borrowed money to build this housing and has not yet repaid the full amount



it borrowed, it would not be fair for the new western territory to continue to pay for this asset once it becomes the property of Nunavut. Similarly, the territorial government has assumed long-term liabilities to individuals which are related to the Nunavut area. For example, the government pays pensions to retired public servants whom it employed in what will become Nunavut and workers compensation to workers in Nunavut whose injuries prevent them from earning a living. To what extent should the government of the new western territory be responsible for continuing to pay such costs? Resolving these questions is conceptually easy, but more difficult in practice. What is required is that all examples of such liabilities be documented. Their costs should become part of the base budget of Nunavut (and be deleted from the western budget) and thus factor into the Government of Canada's fiscal transfers to both new territories. This accounting procedure will be fair to taxpayers in the western territory and also has the advantage of giving a clear sense of the real cost of each government's programs. It should also limit the opportunity for inapt judgments about one territory or the other receiving "special consideration" in funding from the Government of Canada.

Similar issues arise concerning the fair and reasonable allocation of assets between the two new governments. Again, what will be required is a clear understanding of the basic principles which will govern this question and a thorough and consistent application of these principles.

(ix) International Capability

The people of Nunavut share important interests with their neighbours around the shores of Arctic Ocean and have developed important cultural and political relations with them. The Government of Nunavut should be designed to foster these relations, as the Government of the NWT has done, and to work with the Government of Canada and with Aboriginal non-governmental organizations such as the Inuit Circumpolar Council to pursue territorial goals, to influence the shape of Canada's policies concerning the Arctic and to contribute to the attainment of international objectives, such as those set out in the ICC's Arctic Policy.

(x) The Elders

The Government of Nunavut will make policies across the span of its jurisdiction which will affect Inuit culture in the coming decades. One of the goals underlying the pursuit of Nunavut is that these policies will be culturally sensitive and supportive. No one in Nunavut is better informed about Inuit culture and in a better position to bring traditional Inuit values to bear on government decision-making and on the delivery of programs than are the Inuit elders. The Nunavut Implementation Commission should consult with elders in order to ascertain how best they might share their knowledge with the government of people of Nunavut. In considering this question, the NIC should keep in mind the observation of the Traditional Knowledge Working Group, a study group appointed by the territorial government, that

"The use of traditional knowledge at the political level is limited without a formal avenue for elders to provide advice. Increased representation of aboriginal people in institutions does not guarantee

the use of traditional knowledge in decision making".  
(page 4)

The Working Group recommended that a Territorial Elders Council and regional and community elders councils be established to advise the Legislative Assembly, other elements of government and the private sector. The Nunavut Implementation Commission should consider the desirability of implementing this recommendation for Nunavut and the extent to which the role of traditional knowledge in policy making and program delivery should be acknowledged and affirmed in the constitution of Nunavut. Assuming that there is, indeed, a significant role for traditional knowledge in the life of Nunavut, the NIC itself should draw upon this knowledge in its own decision making by establishing an Elders Council or some other regular consultative process to advise it.

(xi) Gender

The Political Accord is silent on a planning principle which deserves mention--the impact of gender. While they have not played as great a role in the claims negotiating organizations, Inuit women hold many positions of leadership at the community and Inuit national levels. They constitute an immense resource for Nunavut. The Government of Nunavut should be planned to make the most of this resource. The Government will enjoy the advantage, compared with other governments, of being created at a time when it has been recognized that structural obstacles may limit access to employment and advancement of women in government. The Nunavut Government should be designed in a fashion which is sensitive to this possibility and which attempts to limit it as much as possible. The NIC should also investigate such possibilities as job sharing, flexible hours of work and

offices in the home as means of making public service employment as accessible and rewarding as possible for women. Documents describing the Government of Nunavut should emphasize the importance of gender equality in it. In pursuing the goal of ensuring that the government of Nunavut will be as hospitable an employment environment as possible for women in general and Aboriginal women in particular, the NIC's planning process should actively involve Pauktuutit, the national group representing Inuit women, as well as other women's groups.

## xii Inuit Youth

The Inuit youth of today are the future of Nunavut. That future is clouded by the many problems that Inuit youth experience. The Nunavut Implementation Commission lacks the resources to eradicate these difficulties, but it can add its own contribution to the efforts of many agencies in this direction and at the same time increase the prospects for a successful transition to Nunavut. If the NIC can find ways to reach out to Inuit youth, it may be able to persuade them that Nunavut offers them real personal opportunities. This may encourage young people to stay in school longer than they otherwise would, making it easier for Nunavut to meet its local hire goals and reducing the personal and social problems, not to mention the financial cost, of high levels of unemployment. Moreover, by explicitly involving Inuit youth in the planning for Nunavut, the NIC ought to be able to enhance the level of understanding of Nunavut among Inuit youth and to prepare them for the leadership roles upon which Nunavut will depend in the future. Because Inuit youth comprise a distinctive population, with its own culture and concerns, the NIC will have to develop a communications and involvement strategy specifically aimed at them if it hopes

to accomplish these important goals.

#### xiii Provisions for the West in the Nunavut Process

The manifest purpose of the Nunavut Act is to set in motion the formal process for creating Nunavut. What is less obvious is that the Act has two important and interrelated impacts. First, it will result in the creation of a new western territory, the residual jurisdiction which will remain after Nunavut becomes a territory in its own right. Second, it will pose very significant burdens on the Government of the NWT. It will have to restructure itself and, to the extent that it will continue to provide services to the Nunavut region, it will have to plan how these services will be organized after legislative authority for them shifts to the new Government of Nunavut.

It is critically important that the problematic institutional situation of the West be recognized, not only in justice to its residents, but also because the unsettled state of affairs there will necessarily affect the ability of the western government to support the fledgling Nunavut Government in its early years. At present the West is in the relatively early stages of a process of constitutional planning. This process is complicated by the ethnic diversity of the region, which has been compounded by the fragmentation of the Dene Nation into a set of First Nations with different visions of the institutional future of the public government and of their relationships with it. The West will be challenged to reach a consensus on a new form of government in time for implementation by 1999. The range of policy outcomes it confronts extends, on one extreme, from the development of powerful First Nations governments to the other of the continued preeminent power of the Government of the Northwest Territories. The executive of the Government of the NWT is attempting to build

support for a policy of delegating administrative authority to communities which request it and demonstrate to the territorial government their ability to manage particular programs successfully. However, there are elements in the government who wish to limit the delegation of its authority to the communities. They prefer a policy of conceding only as much as is necessary to undercut the incentive for the creation of First Nations governments, that is, to cause Aboriginal residents of the West to feel that they have more to gain from community transfer than they do from going pursuing self-government. (Dacks, 1993)

The well-being of the Aboriginal residents of the Territories and the need to resolve the western constitutional issue in the timely and lasting fashion which will enable the western government to be in the best possible position to assist the new Nunavut government require that the Government of Canada nurture consensus in West to the fullest extent consistent with the right of its residents to participate meaningfully in the design of their future government. In particular, this means encouraging a convergence between the extreme positions on this question, at least to the extent of not favoring one over the other. At present, the position of the Government of Canada encourages those who resist the transfer of power to Aboriginal people, either through their community public governments or through First Nations governments:

"The territorial government model, based on that of the provinces, is an appropriate governing institutional framework for the northern regions....While Aboriginal self-government may be the best approach to meeting the political interests of Aboriginal populations living on reserves in the provinces, public government, determined by a population with strong Aboriginal representation, will be well positioned to serve those Aboriginal interests in the North." (DIAND, 1993: i, 2)

While this statement may be valid for Nunavut, it is less obviously so in the West, where it works against Aboriginal people as they plan and begin to negotiate their institutional future there. To level the playing field, the Government of Canada should recognize that First Nations governments are as viable options for the West as is the continued preeminence of the Government of the Northwest Territories.

To promote the western constitutional consensus which will facilitate the delivery of services in Nunavut, the Government of Canada should resume its funding of the process by which this consensus is being sought. It suspended this funding when this process was at a low ebb. Now that the process is flowing again, it should be funded just as the Nunavut Implementation Commission will be funded. This funding should help accelerate the process so that the shape of government of the new western territory can be known as quickly as possible and steps begun to prepare for it. Nunavut will benefit in that, the sooner the West can begin to reorganize itself, the more administrative capacity it is likely to have available to meet the needs of Nunavut. Its experience and existing operations will make it best suited to deliver many programs and services in Nunavut, but it will be challenged to adjust these to the legislative authority of the Nunavut Government and its wishes to alter their structure and mode of delivery.

The uncertainties surrounding the administrative capacity of the West in the coming decade suggest several thoughts. First, in fairness to the West and in order to maximize its ability to deliver services on behalf of the Government of Nunavut, the transitional costs of creating the new western territory must be adequately funded. Second, the base budget of the government of the new western territory must reflect the real

costs of providing the existing level of services to the people of the area. While the Political Accord affirms these principles, the Government of Canada may seek some relief from the high costs of creating Nunavut by overstating the amount which can be taken out of the budget of the Government of the NWT as it shrinks to become the government of the new western territory. This impulse must be resisted; the basic principle should be that residents of the western NWT should not be required to pay for the creation of Nunavut. Third, it should not be taken for granted that the new western government will be able to continue to provide Nunavut with services presently provided by the Government of the Northwest Territories. At a relatively early stage of the NIC's planning process, the administrative capacity of the new western government should figure prominently in the NIC's decisions. The principle of phasing in the Government of Nunavut's responsibilities for the delivery of services is a sound approach. However, its implications for the new western government must be borne in mind. Fourth, the willingness and ability of provinces and other agencies to provide particular programs should be investigated and compared to the ability of the new western government to meet the needs of Nunavut regarding the provision of those services.

In the end, what must be kept in mind is that the creation of Nunavut is the creation of two new territories; planning must consider the individual needs of both and well as the complex interrelationships between them.

#### (xiv) The Capital of Nunavut

Deciding the location of capital of the new territory will likely prove a demanding task in that it pits the interests of the regions of Nunavut against one another. Indeed, the delicacy



of the issue is suggested by the fact that the Nunavut Act does not mandate the Nunavut Implementation Commission to recommend a location for the seat of government, but rather only to make recommendations concerning the process by which this decision will be made (Section 58 (d)). A great deal is at stake in this decision. In any economy in which government is the largest employer and in which its jobs tend to be the best in terms of pay, conditions of employment and job security, the community selected to be the capital will benefit enormously in terms of direct employment and the demand which government workers will inject into the local economy. The opportunities for private sector firms to provide goods and services to government will further strengthen the local economy. All of these forces will combine to provide the seat of government with a very substantial property tax base.

If communities in the Nunavut area are compared in terms of the availability of existing infrastructure, it would seem to be least expensive to locate the new territorial capital in Iqaluit. However, Iqaluit lies in a corner of the Nunavut area, a site which might be argued to be less convenient than other possible locations. In any case, it is likely to be argued that "the equitable distribution of government activities among Nunavut communities", which is one of the design goals stated in Nunavut Political Accord, should be applied in a thoroughgoing fashion which will make selection as territorial capital less of a prize than it would otherwise be. The greatest likelihood is that the price of consensus over the selection of a territorial capital will be the dispersal of what would otherwise be head office jobs to communities which hold some ambitions to be the territorial capital. The challenge will be to manage the process by which the necessary concessions can be negotiated at the least possible cost to Inuit unity and with the least possible

distraction from the many other issues surrounding the planning for Nunavut.

(xv) Jurisdiction over Land and Resources

The Government of the Northwest Territories looks forward to the day when the Government of Canada will have devolved to it jurisdiction over the oil and gas resources and, indeed, the lands and other resources in the NWT which the Government of Canada currently administers (Dacks, 1990: 225-266). This transfer will remove one of the players--the Government of Canada--from the resource management process. This should permit the creation of a simpler and better integrated system of resource management than now exists. The territorial government will be able to use this system, within the political constraints created by land claims based advisory bodies, to promote the resource-based development it considers crucial to the economic health of the territories. The Government of the NWT wants preparations for Nunavut not to delay progress toward devolution to it of jurisdiction over land and resources. The Inuit have agreed not to interfere in negotiations between the two governments concerning devolution of jurisdiction regarding energy. At the same time, they are anxious that this devolution not occur in a way which works to their disadvantage. Moreover, they look forward to the earliest practical transfer to Nunavut of jurisdiction over land and resources. This will strengthen the ability, described in Section (2), which the claim Agreement gives them to manage the environment in their best interest. The Government of Canada wants to be sure that its negotiations with the Government of the NWT concerning the transfer of jurisdiction over land and resources do not interfere with the smooth flow of the Nunavut process and, in particular, do not

unduly burden the Nunavut Implementation Commission. In the end, this devolution is not a question which directly affects the creation of Nunavut. However, the sensitivity with which all sides approach it will affect the ease with which preparations for Nunavut occur.

(5) Political Will

The Governments of Canada and of the Northwest Territories have committed themselves unequivocally to the creation of Nunavut. Very powerful practical reasons reinforce their commitment. The most basic of these are the absence of plausible alternatives to Nunavut and its necessary linkage with the settlement of the Inuit land claim. However, both governments will experience in the coming years challenges to their ability to act on their commitment, challenges which the Royal Commission should strongly recommend that they resist.

In the case of the Government of Canada, several problems can be anticipated. The first is that, with the Inuit claim settled and in the absence of the type of circumstances which pressed the government so forcefully in 1990, interest in Nunavut will wane. At the same time, as fiscal restraint becomes more severe and, to the extent that the capacity of the Government of Canada to act will diminish as it shrinks, it will become increasingly difficult for it to devote the necessary resources to the creation of Nunavut, indeed of two new territorial governments. In the anticipation of this future, the Royal Commission should emphasize that, while Nunavut is not an example of exclusive First Nations government based on an Aboriginal right, it will provide meaningful self-determination for the members of one of Canada's First Nations. For this reason, it should urge that Nunavut remain on the active list of primary

priorities for the Government of Canada.

Acting on this priority will require the Government of Canada to make certain organizational changes. The cooperation and support of a significant number of its departments will be required for the successful creation of Nunavut. However, it is not apparent that Nunavut has taken root in the administrative culture of the Government of Canada, that it is well understood and that administrators across the organization see it as an important government goal which has a legitimate claim on their increasingly scarce resources. The Government of Canada should therefore develop mechanisms to ensure that its agencies are well engaged in the Nunavut process and ready to assist it when necessary. Significant and regular involvement by the Privy Council Office would send a helpful message. Regular meetings of senior officials of such departments as the Treasury Board, Justice and Indian Affairs and Northern Development could smooth the process of decision making, and particularly the confirming of positions which will be placed before the Nunavut Implementation Commission and instructions which will be given to Interim Commissioner. One important device for enhancing the sensitivity of public servants to Nunavut will be to involve them fully in the management agencies and processes established under the Inuit land claim Agreement. The experience with Nunavut-related issues which this contact will provide them should enable them to explain within their departments the needs of Nunavut and, hopefully, to build commitment to meeting those needs. For this reason, a full rather than a minimal federal involvement in these processes should be encouraged.

The challenges of will and organization facing the Government of the Northwest Territories are rather different. The most obvious of these is that it will have to undergo a series of changes which will add to its program delivery activities a very

demanding set of activities relating to preparing for Nunavut. As 1999 approaches, and depending on the arrangements which have been made, departments may have to reconstitute themselves as dual administrations, one for Nunavut and the other for the western territory.

While administrative organization will prove demanding, even more difficult will be the task of preparing to make tough political decisions. The Legislative Assembly of the Northwest Territories has a weak record of debating constitutional issues in a thorough and rigorous fashion. In part this reflects the abstract and until recently hypothetical character of these issues. MLAs, being primarily elected on their personal qualities and ability to serve the local needs of their voters, have tended to focus on questions of more immediate and concrete interest to their constituents. Legislative indecisiveness also results from the absence of the party caucuses and party discipline in the Assembly that would help to organize and focus debate on constitutional questions. In the near future, it will be important for the members of the Legislative Assembly to be meaningfully involved in preparations for division of the Northwest Territories. Members representing both East and West will have important roles to play in explaining to their constituents the many issues which will arise, in laying to rest unreasonable anxieties about the process and in communicating to government the concerns and preferences of their constituents concerning division. Moreover, they will have to accept more responsibility to debate and decide the legislative issues which will precede the creation of Nunavut and the new western territory. It is often desirable to delay decision until all involved are confident that sufficient time has passed for ideas to jell and all views to be heard. However, the Nunavut process is expected to unfold in a timely fashion, certainly more quickly

than institutional change has occurred in the North in the past. If legislative inaction or a lack of coordination between the Assembly and the Executive Council cause the Government of the Northwest Territories to lag behind the Nunavut process, the process will suffer and so too will the Government of the NWT. The public service of the NWT is well organized for taking decisions relating to Nunavut. What is necessary is to prepare the Assembly and the relations between it and the Executive to make the decisions which division will require. One model worth pursuing already exists. The Restructuring Northern Government Committee is noteworthy in that it is one of several committees of the Assembly which is composed of both ministers and members of the Assembly who are not ministers. This is a type of structure which should be created and actively involved in division planning in order to link the Executive and the Assembly and gain the maximum amount of coherence and cooperation in the years preceding the creation of Nunavut. While members from the Nunavut area will figure particularly prominently on such a committee, members from the western portion of the NWT will also have obvious roles to play in educating their constituents about a change which they view with mixed feelings and representing their interests as that change occurs.

(6)      Conclusion

Nunavut will happen; the commitment has been made. However, it will be accomplished better or less well depending on the political will of all parties to the Nunavut project and the coherence and unity with which each organizes itself for the task of implementing Nunavut. There will be a ceremony in 1999. The role of the Royal Commission should be to encourage all parties to ensure that the government which the formalities will

usher into the world is as fully worthy of celebration as possible. The major recommendations to this end which this study has proposed are:

- (1) That the Government of Canada maintain a high level of commitment to Nunavut among its program priorities and allocate the funding needed to implement properly the Nunavut Act. This will be particularly important in the case of adequately funding training programs and transitional and incremental costs.
- (2) That the Government of Canada fully support the Nunavut Implementation Commission as the focus for planning for the creation of Nunavut and respect its independent status as a tripartite body.
- (3) That careful consideration be given to expediting the transfer of jurisdiction over land and resources to the Government of Nunavut so as to realize the full potential for Inuit control over their environment contained in the Inuit final Agreement.
- (4) That employment equity be a fundamental goal in the design of the Government of Nunavut and that gender equality be formally identified as one of the principles upon which Government is based.
- (5) That Inuit elders and youth be appropriately involved in the planning for Nunavut.
- (6) That planning for Nunavut be understood to require planning and equitable provision for the needs of the new western territory which will come into being as a result of the creation of Nunavut
- (7) That to assist the meeting of one the most critical needs, the design of a western constitution, the policy of the Government of Canada regarding the balance between the

principles of First Nations self-government and public government in the western NWT encourage a convergence of thinking on this issue among the residents of the area by favoring neither of these principles over the other.

### Acknowledgement

The author acknowledges with gratitude the generosity with which those interviewed for this study shared their time and insights, the care with which a number of individuals reviewed and commented upon the manuscript and the flexibility and lightness of touch with which the Royal Commission directed the research. All contributed greatly to the process of this research. Of course, any errors or omissions are the responsibility of the author.

### Primary Sources

Canada, 1993(a). Nunavut Act

--- 1993(b). Nunavut Land Claims Agreement Act.

--- 1966. Report of the Advisory Commission on Development of Government in the Northwest Territories. Ottawa.

--- Department of Indian Affairs and Northern Development. 1988. A Northern Political and Economic Framework. Ottawa: Supply and Services Canada.

--- 1993. "The Evolution of Public Governments in the North and Their Implications for Aboriginal Peoples". Ottawa: DIAND.

Canadian Arctic Resources Committee. 1987. Boundary and Constitutional Agreement for the Implementation of Division of the Northwest Territories between the Western Constitutional Forum and the Nunavut Constitutional Forum. Ottawa: CARC.



--- 1988. Aboriginal Self-Government and Constitutional Reform: Setbacks, Opportunities and Arctic Experiences. Proceedings of a national conference, Ottawa, 9-20 June, 1987. Ottawa: CARC.

Coopers and Lybrand Consulting Group. 1991. Financial Impact of Division of the Northwest Territories - Phase I Report.

--- 1992. An Estimate of Costs - Creating and Operating the Government of Nunavut.

Dacks, Gurston. 1993. "Canadian Governments and Aboriginal Peoples: The Northwest Territories". draft, Ottawa: Royal Commission on Aboriginal Peoples.

--- 1990. Devolution and Constitutional Development in the Canadian North Ottawa: Carleton University Press.

Dickerson, Mark O. 1992. Whose North: Political Change, Political Development and Self-Government in the Northwest Territories Vancouver: UBC Press.

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

Fenge, Terry, "Political Development and Environmental Management in Northern Canada: the Case of the Nunavut Agreement" (Unpublished).

Inuit Committee on National Issues. 1987. Completing Canada; Inuit Approaches to Self-Government. Kingston: Institute of Intergovernmental Relations, Queen's University.

Inuit Tapirisat of Canada. 1976. Nunavut: A Proposal for the Settlement of Inuit Lands in the Northwest Territories.

Irwin, Colin. 1988. Lords of the Arctic: Wards of the State. Ottawa: Health and Welfare Canada.

Jull, Peter. 1988. "Building Nunavut: A Story of Inuit Self-Government" The Northern Review 1 (Summer 1988).

Lester, Geoffrey S. 1984. Inuit Territorial Rights in the Canadian Northwest Territories. Ottawa; Tungavik Federation of Nunavut.

Merritt, John. 1993. "Nunavut: Preparing for Self-Government"

Northern Perspectives Vol. 21, No. 1.

Merritt, John and Fenge, T. 1990. "The Nunavut Land Claims Settlement: Emerging Issues in Law and Public Administration". Queen's Law Journal, Vol. 15, No. 2.

Merritt John, et. al. 1989. Nunavut: Political Choices and Manifest Destiny. Ottawa: Canadian Arctic Resources Committee.

Northwest Territories. 1993. Moving Forward to 1999. Yellowknife: GNWT.

---Department of Culture and Communication. 1991 Report of the Traditional Knowledge Working Group. Yellowknife: GNWT.

Nunavut Constitutional Forum. 1983. Nunavut. Ottawa: NCF.

--- 1985. Building Nunavut: Today and Tomorrow. Ottawa: NCF.

Purich, Donald. 1992. The Inuit and their Land: The Story of Nunavut. Toronto: Lorimer.

Special Representative for Constitutional Development in the Northwest Territories. 1979. Constitutional Development in the Northwest Territories. Ottawa: Supply and Services Canada.

Tungavik Federation of Nunavut, Government of Canada and Government of the Northwest Territories. 1992. Nunavut Political Accord. Ottawa.

Tungavik and Minister of Indian Affairs and Northern Development, Agreement Between the Inuit of the Nunavut Settlement Area and Her Majesty in Right of Canada. 1993. Ottawa: Tungavik and Minister of Indian Affairs and Northern Development.

Whittington, Michael, ed. 1985. The North. Toronto: University of Toronto Press

## Appendices

Tungavik and Minister of Indian Affairs and Northern Development, Agreement Between the Inuit of the Nunavut Settlement Area and Her Majesty in Right of Canada. 1993 Ottawa: Tungavik and Minister of Indian Affairs and Northern Development. Article Four,

"Nunavut Political Development".

Tungavik Federation of Nunavut, Government of Canada and  
Government of the Northwest Territories. 1992. Nunavut  
Political Accord.