

5 Year Review

1993 to 1998



IMPLEMENTATION

OF THE NUNAVUT LAND

CLAIMS AGREEMENT

N- INDEPENDENT REVIEW

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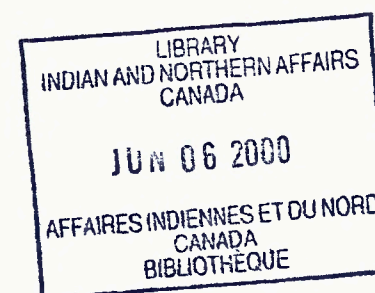
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Executive Summary

The Nunavut Land Claims Agreement (NLCA) is a land claims agreement, within the meaning of the *Constitution Act*, between Canada and the Inuit of the Nunavut Settlement Area (NSA). Both ratified the NLCA, the Inuit by a vote and the Federal Government by passage and assent to the *Nunavut Land Claims Agreement Act* which came in force July 9, 1993. The NLCA stipulated that the Federal Government, Inuit, and the Territorial Government would develop an Implementation Plan governing the activities required to implement the NLCA. A Contract Relating to the Implementation of the Nunavut Final Agreement (the Implementation Contract) was signed in May, 1993.

The NLCA and the Implementation Contract create obligations for a broad range of offices in the Federal and Territorial Governments, and for the Nunavut Tunngavik Inc. (NTI), the organization representing the Inuit of the NSA. These obligations range from a single time-limited action, such as recommending legislation to establish a new Nunavut Territory, to ongoing activities related to the co-management of wildlife. Government is also obliged to change the way it “does business” by consulting or involving Inuit in certain decisions or activities.

Implementation of the NLCA has created a new implementation environment that includes Federal and Territorial Governments, NTI, federal Institutions of Public Government, and Inuit implementation bodies such as the Nunavut Trust and Regional Inuit Organizations.

It is a complex environment and one that is about change.

The Parties established an Implementation Panel responsible to oversee, provide direction, and monitor the implementation of the ongoing and time-limited obligations, specific activities, and projects arising from the NLCA and Implementation Contract. As part of this responsibility, the Implementation Panel must arrange for an independent review of implementation progress at five year intervals. This is the first such review covering implementation between July, 1993 and July, 1998.

This Executive Summary provides an overview of the findings and concepts discussed in each section of the Implementation of the Nunavut Land Claim Agreement: An Independent 5 Year Review (the 5 Year Review). It also provides comments that put the findings and recommendations into perspective.

Section 1 - Context

The 5 Year Review was requested by the Nunavut Implementation Panel (the Panel) as part of the Panel’s responsibility to monitor implementation progress. Specific requirements of the 5 Year Review included a detailed analysis of obligations, a review of Article 23 (Inuit Employment), an assessment of the impact of the Nunavut Land Claim Agreement (NLCA), an examination of implementation issues, and recommendations on how to improve the implementation process in the future.

The Review Team consisted of three principal consultants, with senior expertise in the areas of 1) government decision-making, 2) Inuit employment and business development, and 3) operational reviews and management practices. The Review Team was assisted by a group of Inuit researchers and translators, and a leading aboriginal academic.

The review process included consultations with approximately 100 individuals involved in the implementation of the NLCA, and an examination of files and documentation. A limited amount of survey data was also collected, as part of the impact assessment work.

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Section 2 - Status of the Obligations

The Review Team examined the obligations stated in the NLCA and the Implementation Contract (the Agreements) to determine progress to-date.

General Provisions: Commitments to publish the NLCA in English, French, and Inuktitut were met. The process agreed to for interaction between the Parties (NTI and the Federal Government, and in the context of the Implementation Contract, the Territorial Government) was followed inconsistently. The Nunavut Political Accord was negotiated as anticipated, and the associated legislation was recommended as agreed.

Wildlife and Harvesting: The Nunavut Wildlife Management Board (NWMB) was successfully established and is meeting its implementation obligations. Relationships between the NWMB and Government have steadily improved over the review period. Generally, Government has not revised laws of general application or operational procedures that affect wildlife and harvesting. Regional Wildlife Organizations (RWOs) and Hunters and Trappers Organizations (HTOs) were established, as required.

The RWOs and HTOs have made some progress with the implementation of their obligations related to harvesting and the special features of Inuit harvesting. They require the continued support and assistance of the NWMB and NTI to fulfill their obligations. Government needs to establish processes and procedures related to Inuit rights of first refusal and the involvement of the NWMB and Inuit in discussions and negotiations related to domestic and international agreements. Obligations related to wildlife compensation have not been met. This is tied to passage of legislation to establish institutions of public government. Government has not established formal structure(s) for coordinated management of migratory marine species.

Parks, Camps, and Conservation Areas: HTOs need to improve communications about and processes related to the establishment of outpost camps. National Parks were not established as stipulated in the Agreements, and Inuit Impact Benefit Agreements (IIBAs) were not completed until a year after the review period. There is confusion about the number of Territorial Parks, and this has affected the implementation of obligations related to IIBAs and Inuit involvement in Parks planning and management. No IIBAs for Territorial Parks were successfully negotiated during the review period. Issues related to funding also affected implementation. Government needs to improve procedures and processes related to rights of first refusal to operate business opportunities. The legislative study related to Conservation Areas was not completed as required. No IIBAs were negotiated for Conservation Areas. Government and Inuit need to commit themselves to a planned approach for cost-effective IIBA negotiations. There was progress in the publication of information about Parks and Conservation Areas as required under the Agreements.

Institutions of Public Government (IPGs): Except for the NWMB, legislation establishing the Institutions of Public Government has not been passed. The Nunavut Planning Commission (NPC), the Nunavut Impact Review Board (NIRB), and the Nunavut Water Board (NWB) were established on July 9, 1996 in the absence of legislation. The Surface Rights Tribunal (SRT) was established past the deadline.

The IPGs have developed and publicized governing authorities (e.g., by-laws, rules and procedures) for governance and operations. The Boards of the IPGs are meeting to coordinate resource management activities. No land use plans were approved during the review period. This has hampered the IPGs in carrying out their responsibilities. Draft plans are awaiting Ministerial approval. Relationships with Government generally improved over the review period, but Government needs to adjust operating practices and procedures to reflect the new resource management regime.

Lands and Lands Management: Ownership of lands outside of municipal boundaries was transferred to Inuit. The Regional Inuit Associations (RIAs) were designated by NTI to manage the majority of Inuit Owned Lands (IOL) with NTI administering the surface and sub-surface for the balance. A number of policies and procedures governing surface and sub-surface access and use were developed by Inuit organizations. There is still work to be done in this area.

The Federal Government has developed and implemented land management policies and procedures to reflect the new regime. The Territorial Government has not completed the conveyance of all prescribed lands to municipalities. In the interim, the Territorial Government administered these lands as required in the Agreements. Natural Resources Canada met their obligations for surveying and, in consultation with Government and Inuit, commenced an enhanced 10 year survey program for IOL.

Inuit Employment in Government: The labour force survey was not completed properly and was not an effective input in the development of the Inuit Employment Plans (IEPs). IEPs were prepared on time but were not complete, nor were they generally posted. With a few exceptions, Pre-Employment Training Plans were not developed. The interaction between the parties called for in Article 23 was not effective. On balance, implementation and employment results were disappointing. It is recommended that the Parties rethink the implementation of this Article from the beginning, and re-initiate their implementation efforts.

Government Contracts: With respect to the Federal Government, policies have been adapted adequately but not applied to all branches of the Party. The consultation on Article 24 did not meet the requirements of the NLCA, although both could have taken a more constructive approach. Deadlines were missed, and there is no current process for adapting purchasing practices to evolving Inuit capabilities. Territorial Government contracting processes have been adapted adequately and respond to evolving Inuit capabilities. Training programs for supporting Article 24 are in place, however, there has not been an appropriate level of dialogue between Government and NTI. Bidding assistance is being provided to Inuit firms, however, better communication and coordination would result in the assistance having more effect.

Federal practice in providing opportunities to bid has improved, but does not meet all requirements stated in the Agreements. Territorial practice is mostly compliant with the Agreements. In non-competitive situations, both Governments have shown a willingness to involve Inuit firms.

A list of Inuit firms is now being maintained effectively by NTI, however, the information does not always get to the appropriate decision-makers. There is no monitoring of progress under this Article and no baseline to measure against. Further, the time-limited nature of this Article is not widely understood. Recommendations are made to improve consultation, communications, the consistent application of policy, reporting and monitoring, learning the lessons of Article 24, and planning for the orderly phase-out of this Article.

IIBAs and Resource Management: One resource-related IIBA has been negotiated. The process of negotiation was efficient, in contrast to the process involving park-related IIBAs, and allowed for benefits on a timely basis. Resource royalties paid to Inuit are likely correct in amount, however, the required verification documents have not been provided by the Federal Government.

Archaeology and Ethnographic: Most obligations in this area are being met despite two key barriers: the absence of required legislation and the absence of a suitable facility in Nunavut. Front-line managers have done a good job in developing working solutions in the interim.

Inuit Enrollment: The set-up of the Inuit Enrollment List was handled correctly. Ongoing administrative practices likely need to be improved.

Implementation Panel: The Implementation Panel first met in November, 1993. The Panel has published an annual report as required. The costs of the Panel are borne by the Federal Government. Issues related to the role, responsibilities, and operations of the Panel are discussed in detail in Section 5, Implementation Issues.

Designated Inuit Organizations (DIOs): Designating Inuit organizations is a prerequisite function for the fulfillment of many other obligations. This responsibility rests with NTI. This process was slow to evolve, not well-managed during the review period, and not well understood outside NTI. This, in turn, contributed to the difficulties observed in meeting other obligations. Current operations have improved substantially. Recommendations are made to improve the monitoring and support of DIO implementation activities.

Other Related Organizations: The Nunavut Trust is receiving financial compensation on behalf of Inuit. The Trust appears to be meeting its financial responsibilities, but has not met all disclosure obligations.

Obligations related to the Arbitration Board have been met, however, the Review Team noted a number of concerns. The initial members required judicial appointment after the Parties failed to reach agreement. The Parties have not used the Board to resolve disputes. Recommendations are made for a non-partisan Chair and to use the Board on a test basis.

Establishment and reporting obligations related to the Nunavut Social Development Council (NSDC) have been met. Government is not currently meeting its obligations related to involving Inuit in the development of social and cultural policies, and has no process or organizational mechanisms for doing so.

A summary of the status of obligations is provided in Figure 1 below. Overall, there has been a significant amount of success. It is important to recognize the commitment and effort it has taken to get this far, however, there are a large number of obligations that remain unsatisfied.

Figure 1 is somewhat simplistic, but does provide one perspective on a very complex picture. Other items to consider in reviewing Figure 1 include: 1) in a small number of cases the Parties have made a conscious decision to delay implementation, 2) where there has been no occasion to implement an obligation, the obligation is not included in the analysis, 3) often, more than one organization needs to contribute to implementation before an obligation can be completed, and 4) closely related obligations have been grouped.

Further, many of the obligations are ongoing in nature. Figure 1 does not reflect the quality of the underlying management process nor the ability to sustain a successful result.

Figure 1 - Summary of Implementation Performance

Topic Area	Articles	Substantially Complete	Partially Complete	Largely Unmet	Total Obligations
General	1, 2, 4	2	2	1	5
Wildlife and Harvesting	5, 6	14	9	7	30
Parks, Camps & Conservation Areas	7, 8, 9	8	3	14	25
Institutions of Public Government	10, 11, 12, 13	8	10	2	20
Lands and Lands Management	14, 15, 19, 21, 40, 41, 42	19	10	9	38
Inuit Employment	23 only	2	1	4	7
Government Contracts	24 only	8	6	6	20
IIBAs & Resource Management	25, 26, 27, 28	6	1	2	9
Archaeology and Ethnographic	33, 34	9	1	3	13
Inuit Enrollment	35 only	8	0	0	8
Implementation Panel	37, Transition	8	2	0	10
Designated Inuit Organizations	39 only	1	0	0	1
Other Related Organizations	31, 32, 38	5	1	1	7
Summary Total		98	46	49	193

Observations on Current Progress: The Review Team noted a pattern of missed deadlines and slow starts, a lot of unproductive and extended discussions, backsliding on obligations, loss of corporate memory and capacity, and the consumption of resources without a full result. This led the Review Team to believe there could have been better completion of results.

The best results tended to come from situations where front-line managers entered into productive discussions, or where the Implementation Panel was able to agree on a course of remedial action. The worst results tended to come in situations where the Parties failed to enter into constructive discussions, and opted instead for stating positions unilaterally.

When the Panel process worked, it was quite effective. At a senior level, it allowed for an enlightening exchange of ideas and well-coordinated efforts. At the working level, the Panel process demonstrated it could lead to constructive and practical solutions that all Parties could buy into. The success of the Panel is a good foundation to build on when improving the management of the implementation environment.

Barriers to Further Progress: The Review Team did not find a great deal of willful obstruction. Most representatives of the Parties were genuinely interested in seeing the Agreements implemented as intended. Most of the barriers to better implementation success tended to be systemic or process-related.

At present, the implementation effort requires more joint action, better working relationships, and a significantly better management process. Section 5 of the report recommends specific improvements to the management process.

Section 3 – Inuit Employment in Government

This section of the 5 Year Review provides a stand-alone analysis of the Article 23 and the IEPs. There were significant weaknesses in the IEPs, however, the plans were workable and had a reasonable expectation of results. The GNWT also made a reasonable, although not outstanding, effort to find new ways of working with Inuit and Inuit culture.

Overall, the Territorial Government made a credible attempt at developing the IEPs and learning from the results. While some departments did improve their levels of Inuit employment, others lost ground. There needs to be an improvement in the monitoring of activities (not just the results), understanding the results, and taking remedial action if the results are not satisfactory. The Territorial Government reports that levels of Inuit employment have remained static at 42% from 1996 to 1998, roughly half the target level.

The appropriate federal departments prepared IEPs and did so on time, but with significant deficiencies. In particular, there was little in the way of monitoring and reporting. While the federal presence in Nunavut was considerably less than that of the GNWT, the efforts and results observed in federal departments were minimal. The only department with measured results was DIAND, which has increased Inuit participation from 38% to 61% between 1996 and 1999.

There are related issues which are undocumented, but which are needed for a complete understanding of performance under this Article. There appear to be collateral benefits from the IEP efforts in that a material volume of Inuit appears to have received government training and then moved on to other jobs, including jobs in Inuit organizations. Further, government managers appear to be in competition for qualified Inuit individuals.

Overall, the execution and results related to Article 23 are not satisfactory, and the Parties should restart the effort to implement this Article. NTI has an important role to play in assisting government managers to achieve the desired results, and should be more involved in generating constructive initiatives. Additional

recommendations are made to appoint Project Managers, increase the Panel's oversight of this area, increase NTI's involvement in solutions, and modify the target percentage with a working-age formula.

Section 4 – Impact Assessment

This section of the 5 Year Review examines the end results of the implementation effort in terms of the two types of objectives stated at the beginning of the NLCA. The first type of objective relates to Inuit rights and the second type relates to the social and economic condition of Inuit.

Inuit Rights: Based on the interviews conducted, documents reviewed, and the limited survey results available, it appears that the Agreements have been implemented such that Inuit have been provided with the contemplated rights and are exercising those rights.

Inuit Condition: The information available is not sufficient to draw a conclusion about the state of the Inuit condition in Nunavut. Section 4 of the Review provides a modest picture of the Inuit condition based on existing sources of information, however, the analysis is necessarily limited.

The most significant observation from the Impact Assessment, and confirmed through the interviews, is a strong feeling among Inuit that they have been empowered. There is a new belief that their actions will determine their future. This indicates a large step has been taken in meeting the objective of self-reliance.

Comments on Impact Assessment: Performance measurement through the assessment of the social and economic condition of Inuit is an essential element of accountability. The constituents of each Party have a right to know how well the NLCA is succeeding and where it is failing. Without this information, the managers and representatives of each Party cannot 1) know if their decisions are having the desired effect, 2) plan effective improvements, or, 3) be held accountable.

Article 12.7.6 states that Government will gather information about the social and economic condition of Inuit. At present, there has been little or no information gathered for the purposes of this Article. Information about the results of implementing the NLCA needs to improve substantially.

There are limits to what periodic impact assessment can accomplish without ongoing data collection. A more effective approach would be to organize an ongoing effort along the lines contemplated under the General Monitoring Plan set out in Article 12.7.6. An ongoing monitoring effort could take advantage of existing data collection channels (e.g., government surveys) to acquire data targeted at the objectives of the NLCA.

Although not the original purpose of Section 4, the discussion on potential indicators demonstrates that it is possible to develop a cost-effective performance measurement program, and recommends specific strategies, partnerships, and sources of information for doing so.

Section 5 – Implementation Issues

Most of the issues noted in the implementation environment can be resolved with better management of the implementation effort. Changes are needed in the following areas:

The Implementation Environment: A number of the systemic barriers to implementation success can be resolved through a consensus of the Parties on the nature of the implementation environment. Agreement is needed on three aspects:

- The use of an active management model where each obligation is managed to completion, rather than waiting for problems to arise or one of the Parties to complain;

- A joint implementation approach, particularly where more than one Party has a role in the successful completion of an objective. This includes jointly identifying and tracking obligations, using multi-party working groups, and a collaborative ethic; and,
- The administrative separation of implementation and negotiation matters, through the clear identification of those matters delegated to implementation managers and those matters about which the Parties have a fundamental disagreement. Separate processes are needed for handling each.

An all-Party commitment to the environment suggested in the report would go a long way to removing the systemic barriers faced by the Parties' implementation managers.

The Panel's Role and Approach: The Panel has demonstrated that it can be an effective forum for communicating concerns and resolving implementation issues. To build on this success and ensure a greater degree of consistency, the Parties need to agree on the Panel's central role in managing the implementation effort. Panel processes need to support the active management model. To this end, the Panel needs to adopt a project management approach to implementing the Agreements, including sign-off of each obligation, the hiring of a Project Manager, development of project management tools, and approval of an Annual Implementation Plan.

Project Management – Tools and Processes: An Annual Implementation Plan is needed as a commitment to joint action on an agreed list of priorities. Structuring deliverables, assignments, and time-lines will keep people focussed on the required results. Doing so within a budget will help focus on the fact that implementation resources are finite.

An independent, non-voting Chair is recommended as an addition to the Implementation Panel. An independent Chair, insulated from the day-to-day demands of working within one of the Parties, would allow a non-partisan individual to focus solely on implementing the obligations of the Agreements and ensuring the health of the implementation effort. Contracting for this service on a long-term basis provides independence, focus on results, and consistency of effort over time.

To provide an effective decision-making body, each Party needs a process which ensures their Panel members are senior enough to make most implementation decisions, are able to advocate effective solutions within their organizations, serve long enough to make a meaningful contribution, and have an inclination towards problem-solving (and not confrontation).

A small, independent Panel support staff is recommended over the current arrangements where Panel support services are provided by one of the Parties. This staff would be the arms and legs of the project management process, and would not be directly involved in implementation activities unless some form of intervention was required to keep the implementation process moving forward.

Under these arrangements, the Panel would take more of a strategic, leadership role in setting direction and priorities for implementation. The Chair would focus on an effective implementation effort, communications, and on resolving the more difficult problems. The Panel staff, led by a Project Manager, would focus on the day-to-day mechanics of managing the implementation effort.

Within the implementation environment, the Review Team noted a significant number of administrative deficiencies that have contributed to communication breakdowns and the erosion of working relationships. In aggregate, the lack of good administrative basics is a material barrier to implementation success. Improved administrative practices are required.

At present, each Party identifies its own obligations, and records its understanding of completion. The Review Team noted a number of deficiencies in this approach, including unmonitored obligations and status statements that were outdated or inappropriate. Further, as the nature of the obligations tends to be about

making change, a management-by-exception approach places an undue burden on NTI to identify problems and raise concerns. The monitoring and policing of obligations is a joint responsibility.

A central system is required for monitoring the status of individual obligations. A joint database is recommended. Once implemented, good status information is the foundation for good management.

In addition to tracking the status of the obligations, there is a need to determine who is responsible within each Party. Much of the ineffectiveness observed in the implementation environment resulted from not knowing who was responsible for what. Formal tracking of the delegated responsibilities is recommended.

In cases where an initial delegation of responsibility has not resulted in effective completion of an obligation, an escalating series of interventions is suggested. Building on techniques which have proven effective, the interventions would include the use of a standing working group, ad hoc task groups on complex issues, facilitation by Panel staff or the independent Chair, resolution by the Panel, or ultimately referral of the issue to the formal dispute resolution processes.

Structuring the intervention process and clearly defining what is at issue will also reduce unresolved issues.

A clear financial picture is an integral component of any project management process. At present, there is no clear and comprehensive picture of the resources available to the implementation effort. The independent Panel staff should develop this information each year as part of the annual planning and reporting process.

Currently, the Panel's Annual Report is a collection of separate statements from the Parties and implementation bodies, with a short joint communiqué at the beginning of the report. This approach does not provide an adequate level of accountability. The Panel's Annual Report should be used as an instrument of accountability for those with implementation responsibilities.

The Annual Report should contain substantive analysis of the year's results versus the goals and objectives set out in the Annual Implementation Plan. The Annual Report is also the best forum for disclosing the status of sensitive or unresolved issues of interest to the Parties' constituents. The Annual Report should be prepared by the Panel staff under the editorial control of the independent Chair.

While the concepts and management principles behind active project management are sound, the suggested approach is relatively untested within the claims implementation environment. The Parties are encouraged to try the approach for five years.

Organizing Beyond the Panel: The central agency model used by the Territorial Government, while not perfect in its results, appears to have some advantages in its ability to generate consistent behaviour within the Party, resolve systemic problems, advocate on behalf of the claim, and maintain a coherent working relationship with Inuit. The central agency model is recommended for the Federal Government.

NTI's internal management processes need significant improvement if NTI is to be fully effective in carrying out its implementation responsibilities. The DIO delegation process has only recently provided an effective delegation framework. Improvements are still needed in monitoring DIO results, supporting the DIOs with technical skills, tracking performance on Inuit responsibilities, and coherent issue management.

Better implementation results are likely if Inuit take more of a leadership role in managing the implementation effort, and if a project management posture is adopted for most issues. Further, NTI should apply the necessary skill sets (e.g., management, human resources) when appropriate. The historical reliance on legal advice, likely a carry-over from the land claim negotiating process, has not always led to constructive, practical solutions. Using a broader balance of skill sets is recommended.

While not part of the implementation process defined in the report, the Parties should make better use of the dispute resolution processes. Unresolved issues mean delays in Inuit benefits. The Review Team noted the Chair of the Arbitration Board is an employee of one of the Parties. A non-partisan Chair is recommended.

Finite implementation resources suggest a need for an economical dispute resolution process. In this regard, the report recommends 1) the Parties agree to a trial use of the Arbitration Board, 2) the Principals of the Parties meet each year to examine why particular issues have not been resolved, and 3) a summary of unresolved issues be published in the Panel's Annual Report.

The body of knowledge surrounding the NLCA is large and complex. Misconceptions, communication problems, and staff turnover are barriers to implementation. It is recommended that the Panel act as a central custodian of information and provide mechanisms for consistent, pervasive communication.

Other Issues: An improved focus on results, rather than posturing and procrastination, will help achieve better implementation. All Parties need to be more open to a 'try it and see' approach. NTI can be more effective if it leads by example, by measuring and demonstrating its own performance in key areas such as Inuit employment and contracting.

The Panel needs to give some additional thought as to what constitutes suitable consultation in a given situation. It is possible to define a range of consultation alternatives and develop guidelines for their use.

IPG Funding: These issues are relatively small administrative matters. There are valid points on both sides of the discussions. Resolving the matters with minimal intervention in IPG affairs is more consistent with the larger objectives of the NLCA. Further, it does not disadvantage the federal Party. Resolving the matter in this fashion will require internal administrative changes within the Federal Party and the leadership to implement such changes.

More importantly, this issue has not been managed well and has become a material irritant in the implementation environment. Working relationships are being soured, and the issue will become a barrier to success in other areas if it is not addressed. The Panel needs to take charge of this issue and get a resolution. The Panel has the authority to make an interpretation on the wording in question. If the Panel chooses not to make a decision, this matter would be a useful test case for the Arbitration Board.

Implementation Funding: The Parties, and the Project Manager recommended earlier, have substantial organizing work to do before a useful assessment of implementation funding can be conducted. Currently, the only area with a clear need for additional funding is the project management function proposed for the Panel. The resources required for this function are considered reasonable in relationship to the size and complexity of the implementation effort. The costs of the Panel are a federal responsibility.

There are other cases for funding that need to be developed, preferably by the recommended Panel staff, and considered by the Panel within the existing implementation budgets.

Section 6 – Compliance with Spirit and Intent

The Review Team looked at several aspects of the implementation environment to determine if there was compliance with the spirit and intent of the NLCA. Looking at a single aspect is not conclusive, nor is it definitively linked to the rather undefined concept of spirit and intent. Taken together, however, the views from each aspect provide some understanding of the level of compliance with spirit and intent.

The Review Team's observations on the behaviour of individuals indicated that most individuals have constructive intentions. Where aberrant behaviour does exist, it often has a systemic cause.

Examining the overall objectives stated at the beginning of the NLCA indicates that Inuit have been provided with the anticipated rights. However, there is insufficient information to make a determination on how well the objectives related to the Inuit condition are being met.

A tabulation of the number of met and unmet obligations indicates mixed results. A large number of obligations have been completed, however, there are just as many uncompleted obligations. The Parties should have achieved better results with the time and resources available.

An enumeration of key successes and failures also indicates mixed results. The failures noted have had a large impact on the ability to move forward and the resources consumed in the implementation effort.

Given that the skill mix, administrative machinery, and organizational approach of the Parties needs to change once there are obligations to be implemented, it is possible to gain insights into the intentions of an organization by examining the change in its internal workings since ratification. The differing challenges faced by each organization need to be kept in mind, but useful insights are available nonetheless.

The Territorial Government has done the best job of adapting to the NLCA implementation effort. NTI and the Federal Government have made changes but have been more interested in maintaining the status quo.

A final aspect in measuring compliance with spirit and intent involves the types of organizational behaviour that might be used by an organization that was dedicated to obtaining the intended results of the NLCA. These behaviours might include effective advocacy within the organization, adaptation of internal processes, constructive engagement on all issues, effort at solutions, the number and effectiveness of solutions proposed, the priority given to systems supporting the implementation effort, access to decision-making, and clarity of the parameters given to the organization's implementation staff.

Against these benchmarks, the Territorial Government has made the most credible efforts. NTI and the Federal Government need substantial improvement.

Overall, each Party needs to make changes to be fully compliant with the spirit and intent of the NLCA.

Synthesis

The status of progress in implementing the NLCA is evaluated as: Fair. Considered from a 'standing start', the scope of the changes already implemented is impressive, and is both a compliment to those involved and a testament to what can be achieved.

A closer analysis reveals some concerns. Considering the time available, the volume of resources invested, and the volume of unproductive effort observed, better progress should have been achieved.

The largest reasons inhibiting better progress are the lack of good project management and a failure by the Parties to participate in a collaborative effort to get the job done. There has been too much isolated posturing and decision-making, and not enough movement to a common footing in addressing challenges. Where a joint approach has been taken, it has been a powerful force in moving the implementation effort forward.

The absence of a Project Manager and an effective project management process seems to be an obvious oversight on an undertaking as complex as the implementation of the NLCA, although this is easier to state in hindsight.

For the future, there are additional concerns. The machinery supporting the implementation effort, particularly the ongoing obligations, is in poor condition. Unrectified, this situation can be expected to lead to

further delays in delivering benefits to Inuit, the inefficient use of resources as ad hoc remedies are applied, and, potentially, the reversal of achievements already in place.

Another reality is the finite nature of implementation resources. The structure and discipline of project management is likely the best tool for coping with limited resources.

The focus for implementation of the NLCA now needs to be on systematic completion and sustaining success. The heady days of rapid new developments are now giving way to the more routine efforts of ensuring that all the assigned tasks are completed and can be sustained. Good management processes, consistency in resolving the unresolved, and attention to detail are now the focus.

In many endeavours, putting the bulk of the apparatus in place is only the beginning. Completing the project, resolving problems, making everything work together, and actually delivering the intended benefits are the more challenging aspects. Implementing the NLCA is not likely to be any different.

Taking Action

The actions required to complete the time-limited obligations and incorporate the ongoing obligations into routine operations are discussed in detail in the body of the report. These actions are summarized in Annex A, which contains the Summary Matrix of Obligations and the Summary Matrix of Management Recommendations.

A summary of the steps the Parties can take to move the implementation effort towards the active management model is provided below.

Effectively, there are three sets of recommendations in the 5 Year Review:

- Recommendations that relate to structuring the implementation environment and setting up the project management function. These recommendations must be agreed to by the Parties, after appropriate discussion within their organizations;
- Recommendations for conducting the project management function, which will be carried out by the independent Chair, the Project Manager, and the Panel staff; and,
- Recommendations for implementing specific obligations, which for the most part will be the responsibility of the front-line managers of each Party.

Setting Up the Project Management Function: To implement the first set of recommendations, the Parties need to agree to adopt and conduct themselves according to:

- The Active Management Model;
- Joint implementation efforts;
- The separation of implementation and negotiation matters;
- The Panel's role;
- The use of a project management approach;
- The creation of an independent Chair; and,
- A five year commitment to the Active Management Model.

In addition, the Federal Government needs to agree to fund the proposed responsibilities of the Panel.

The Parties need to jointly instruct the Panel, as a body, to:

- Prepare an Annual Implementation Plan;
- Prepare an Annual Report, consistent with the concepts in the 5 Year Review;
- Enter into a contract with an independent Chair;

- Set up an appropriate organization;
- Hire the Panel support staff;
- Develop a tool for the central identification and monitoring of objectives; and,
- Assemble a complete picture of implementation resources each year.

Each Party would then decide on the internal process required to obtain approval for these commitments.

The changes are of a significant magnitude that discussions should be initiated concurrently at the political and management levels. Decisions and positions should not be taken until all Parties have agreed on the general desirability of taking this course of action.

Conducting the Project Management Function: The actions to implement the balance of the management recommendations would be left to the first of the Annual Implementation Plans. The Panel would set the priorities and determine what actions to take each year.

Implementing Specific Obligations: The first step in implementing the outstanding obligations is to confirm the implementation responsibility for each obligation, request a sign-off on each completed obligation, and ensure there are current plans in place for making progress on remaining items. After this, the recommended monitoring, tracking, and dispute resolution processes will identify when action needs to be taken, and the nature of the action to be taken by the implementing managers and the Panel.

1.0 INTRODUCTION

This section of the report introduces the Implementation of the Nunavut Land Claims Agreement: An Independent 5 Year Review (the Review), indicates how it was conducted, provides the context for the Review, and previews the structure of the report.

1.1 Purpose

In general, this report addresses two requirements: the need for a review of implementation activities as a whole; and the need to review the implementation of Inuit Employment Plans and other provisions under Article 23.

Requirements Stated in the Nunavut Land Claims Agreement (NLCA)

This report addresses the requirement for a five-year review of implementation activities, set out in Article 37.3.3 (b) that states the Implementation Panel shall:

“... monitor the implementation of the Implementation Plan (i.e., Implementation Contract), ... [and], ... arrange for an independent review at five-year intervals unless otherwise agreed by the Panel;”

This report also addresses the requirement for a five-year review of efforts to improve Inuit employment in the federal and territorial public services, as set out in Article 23.7.1:

“On the fifth anniversary of the date of ratification of the Agreement ..., the Panel shall arrange for an independent review of the Inuit employment plans and other measures under this Article.”

In a more specific sense, this report is intended to resolve some of the difficulties identified during the review period.

Areas of Examination

The 5 Year Review covers five principal areas of examination:

Specific Obligations: As set out in the Nunavut Land Claims Agreement and the Implementation Contract (the Agreements). This area examines compliance with the individual obligations stated in those Agreements.

Inuit Employment in Government: This area examines efforts to increase Inuit employment in the Federal and Territorial Governments.

Impact Analysis: This area defines a series of indicators and analyses, largely in quantitative terms, that attempt to measure the impact on Inuit society in Nunavut over the review period.

Issues: This area describes the issues the Parties to the Agreements are concerned about and those matters which are currently preventing the achievement of the best possible progress toward the objectives of the Agreements.

Global Analysis: This area analyses, largely in qualitative terms, the larger questions: “Did the activities generated by the Agreement have the desired impact?”, and “Was the conduct of the Parties consistent with the spirit and intent of the Agreement?”

1.2 Scope

The scope of the 5 Year Review includes all aspects of the Agreements.

Extent of Investigation

The terms of reference indicated that original research would be outside the scope of the 5 Year Review. The intent was that the Review would rely on the existing documentation and the consultations conducted by the Review Team.

During the course of the project, it was decided that a limited amount of original research was necessary to effectively complete the Review. A sample of Hunters and Trappers Organizations (HTOs), business leaders, and cultural leaders was surveyed.

The documentation accumulated on the implementation environment since July, 1993 is extensive. Selecting, sorting, and digesting this legacy of documentation was the principal activity of the Review. (Note – Despite the volume of documentation available, the Review Team was struck by the relative lack of good management information.)

The Review Team was provided with access to all material files and did not have concerns about important information being withheld. Where information was not accessible to the Review Team, the difficulties typically involved problems organizing larger volumes of information or making information accessible in a timely fashion.

Not all issues were examined to the same level of detail. Where a degree of consensus exists between the parties, a minimal level of documentation was examined. Where disagreement exists about a matter, additional time was spent reviewing documentation and reviewing the issues with knowledgeable people.

Submissions were received from several implementation-related organizations. This information was considered supplemental to the interviews and documentary information obtained from the front-line representatives of the Parties and the implementing bodies.

The Nature of the Recommendations

Recommendations are also required as part of the 5 Year Review, with an emphasis on providing constructive and practical suggestions for taking action in the future.

An effort has been made to avoid being too prescriptive (i.e., detailed) in making recommendations. The intent is to provide a constructive set of recommendations, that will work together to allow problems to be resolved.

While a significant amount of detail is addressed, many of the recommendations are stated in conceptual terms to allow a framework to become visible and to avoid tying the hands of individual managers.

In these cases, the recommendations typically describe the management tools and processes that would allow the successful resolution of a problem. There has been no attempt to resolve all the disputed issues in the implementation environment.

The recommendations for improving implementation results are those of the Review Team. The views of other parties may vary.

Time-frame Covered by the Review

The 5 Year Review addresses the activities from the ratification of the Agreement on July 9, 1993 until July 9, 1998. Where information was available concerning events after July 9, 1998, these events are often noted.

In other cases, it was difficult to distinguish between the activities taking place at July 9, 1998 and the current time. In these instances, the state of activity is merely described as the current status.

One area specifically excluded from the 5 Year Review is the turnover of territorial responsibilities from the Government of the Northwest Territories (GNWT) to the Government of Nunavut (GN).

Draft Report

A Draft Report was made available to the Parties for their review and comment. Comments were received on matters of fact. The conclusions and recommendations are solely those of the Review Team.

1.3 Consultations

The Review Team conducted approximately 100 consultations with representatives and associates of the Parties and implementing bodies. These consultations included:

- Nunavut Tunngavik Incorporated (NTI) headquarters;
- Nunavut Tunngavik Incorporated (NTI) regional offices;
- Department of Indian Affairs and Northern Development (DIAND), Claims Implementation Branch;
- Federal Government departments;
- Ministry of Aboriginal Affairs;
- Territorial Government departments;
- The Government of Nunavut;
- Institutions of Public Government (IPGs); and,
- Other implementation-related bodies.

A detailed list of the individuals interviewed can be found in Annex C. In addition, a significant number of minor contacts were made to confirm a wide variety of technical details.

The Review Team wishes to acknowledge the time, effort, and insights provided by these individuals. Their contributions represent a substantial portion of the understanding and suggestions contained in this report.

Consultations in Iqaluit, Rankin Inlet, Cambridge Bay, Yellowknife, and Ottawa were typically conducted in person. Consultations in other communities were mostly by telephone.

Consultations ranged anywhere from half an hour to a full day. In several cases, multiple consultations were conducted.

1.4 The Review Team

Principal Consultants

The Review Team consisted of three Principal Consultants with senior expertise in aboriginal and government matters.

Louise Vertes, B.A., enjoyed a 13 year career with the GNWT, including six years as Secretary to Cabinet. Over this time, she was closely involved in both negotiation and implementation issues related to several aboriginal land claims. Her experience as a senior government manager provided her with many insights into the formulation and operation of government.

David Connelly, B.Comm., M.B.A., is a former CEO for the Inuvialuit Development Corporation with a mandate for developing contracting opportunities and employment for Inuit in the Inuvialuit Settlement Area. He has eight years experience as a senior executive and consultant providing strategic advice to aboriginal organizations. Mr. Connelly also provides advice to investors and institutions seeking to work with aboriginal groups.

Bruce Knott, B.Comm., C.M.A., a Project Manager with Avery, Cooper Consulting, has 13 years experience as a consultant to government, private sector, and aboriginal organizations in Nunavut and the former Northwest Territories. Mr. Knott specializes in reviews involving management practice, business operations, and financial management.

Associates in the Review Process

During the review process, the Review Team was assisted by two associates.

Innirvik Support Services Ltd., of Iqaluit, is an Inuit owned firm registered with NTI for the purposes of Article 24 of the Agreement. All research and survey work was performed by Inuit, with a useful level of knowledge being transferred from the Principal Consultants to Inuit individuals.

The majority of the Inuktitut translation work was performed by Inuit.

Professor David Newhouse, of Trent University in Peterborough, Ontario, reviewed the work of the Principal Consultants. Professor Newhouse is a leading Canadian academic and the Aboriginal Scholar in Residence at the University of Saskatchewan. Professor Newhouse has authored over 40 publications and has held positions in DIAND and the Treasury Board. He recently served as a member of the Policy Team on Economics for the Royal Commission on Aboriginal Peoples.

Professor Newhouse contributed practical recommendations for improving the management of the implementation effort based on his knowledge of the implementation of other land claim agreements, emerging topics in implementation practice, and national perspectives on implementation issues.

1.5 Qualification: Availability of Information

The effectiveness of the 5 Year Review was hampered by the lack of timeliness in the information provided, the adequacy of information provided, and attention paid to information requests.

While the information gathered has generally been sufficient to reach conclusions and provide insightful recommendations, there have been numerous instances where the information available to the Review Team provided less than full explanations as to what happened and why.

The reasons for these problems are not so much the willful obstruction of the review process (although this was encountered on a few occasions), but rather reasons such as:

- the frantic environment some people faced during the review period (which coincided with the start-up of the Nunavut Territory);
- high levels of turnover and the resultant loss of corporate history; and,
- substantially higher than anticipated levels of fragmentation in implementation responsibilities.

On balance, the report provides substantial insights into the state of the implementation effort and how to proceed in the future.

1.6 Background

Timing of the 5 Year Review

The 5 Year Review is taking place roughly six years after ratification. Initially, there was some thought that this would enable the Review to take advantage of information from Year 5 of the implementation period. In practice, the lack of good management information largely negated this potential benefit.

Of more importance was the timing of the Review relative to the start-up of Nunavut. In hindsight, conducting the Review at the same time the new Government of Nunavut was being set up has resulted in a lot of priorities competing for the attention of those individuals who had something to contribute to the Review.

Related Processes

The Review Team noted three processes which, while not impacting on the 5 Year Review, dealt with related matters. These processes are:

- The Auditor General of Canada's review of DIAND's claims implementation function, a process which is largely complete;
- The Nunavut Implementation Panel's current efforts to update and define its operating procedures; and,

- The efforts by NIT's management team to review its role, subsequent to the establishment of Nunavut, in implementation and the appropriate relationships with the IPGs.

Documentation related to each of these processes was examined late in the review process. The Review Team notes that there were a number of issues where the discussion in the related processes is consistent with the findings and directions of the 5 Year Review. However, there has been no effort to coordinate findings or recommendations with these other processes.

An Independent Review

At the time of writing, there was no established model for conducting a review of this nature. As a result, the Review Team developed certain approaches and perspectives which are intended to help focus the subsequent deliberations by the Parties on constructive solutions for the future.

The Review Team is satisfied that there were no efforts to unduly influence the review process. The Review Team was provided with the necessary access to information and individuals. While strong views were heard on a wide range of subjects, representations were typically limited to ensuring that the Review Team understood the points of view.

In general, there was respect for the idea that the Review Team might not agree with a given point of view. Further, discussions with a wide range of individuals indicated a willingness to consider new ideas and approaches for managing the implementation effort.

Some of the suggestions made in the report are untried in the implementation environment, and are offered as suitable 'next steps' in the evolution of implementation management.

1.7 Structure of the Report

The balance of the report is structured as follows:

Section	Description
2. Status of Implementation Obligations	This section of the report provides an assessment of obligations under the Agreements, as well as a discussion on related issues and recommendations pertaining directly to each obligation.
3. Inuit Employment within Government	This section looks at the Inuit Employment Plans (IEPs), and addresses the following topics: GNWT IEPs, federal IEPs, and issues related to the IEPs.
4. Impact Assessment	This section of the report is intended to examine the impact of the Agreement on beneficiaries. The material in this section discusses the selection of appropriate measures, reviews potential sources of information, and presents data where it is available.

5. Implementation Issues

This section of the report discusses the general and cross-cutting issues raised during the Review, and comments on the tools and processes used for implementing obligations.

This section of the report also examines the context required for successful implementation, a series of issues centering on the Implementation Panel, organizational matters, and other related issues.

6. Compliance with Spirit and Intent

This section of the report examines the elements of spirit and intent, the types of activities that might reasonably lead to conclusions about compliance, and an assessment of how well each of the Parties has done in meeting the spirit and intent of the Agreement.

2.0 STATUS OF IMPLEMENTATION OBLIGATIONS

This section of the report provides an assessment of obligations under the Agreement and Implementation Contract, as well as a discussion on related issues and recommendations pertaining directly to the obligation.

This section is designed as a series of status reports on a group of obligations in a related topic area. For the most part, the status reports are presented in the same order as the Articles of the Agreement.

Status Reports

Each status report contains:

- A title labeling the group of obligations under consideration;
- Headings for each of the component obligation statements;
- The obligations as stated in the Agreement;
- The Review Team's assessment of the obligation's status (bold, in the box);

- Any qualifying comments (also in the box), such as the:
 - Extent of progress,
 - Timing of progress,
 - Nature of progress.

- Observations on the topic area, which may contain comments on:
 - Obstacles and impediments,
 - Implementation circumstances,
 - Conclusions.

- Recommendations on the action steps to be taken.

Assessment Statements

The following standard statements are used to indicate an obligation's status.

In the case of time-limited, single event obligations:

- Has been met;
- Has been partially met;
- Has not been met.

In the case of ongoing obligations:

- Is being met on an ongoing basis;
- Is being partially met on an ongoing basis;
- Is not being met on an ongoing basis;
- Has sometimes been met in the past, but is not currently being met; and,
- Has not always been met in the past, but is currently being met.

In cases where there is no event to report on in relation to an obligation:

- No occasion to implement.

It is also important to note that implementation requires full success in meeting an obligation. The partial completion of an obligation is not satisfaction of the requirement under the Agreements, it is merely an attempt by the Review Team to acknowledge efforts made.

Findings are based on the activities and results that occurred in the review period (to July 9, 1998). In some cases, there have been material developments subsequent to the review period. In these cases, additional observations may be made, and the discussion on related issues may reflect the subsequent developments.

Topic Area: General

Designation of Government

- 1.1.6 Without diminishing or otherwise altering the responsibilities of Her Majesty The Queen in Right of Canada under the Agreement, where, in the Agreement, it is unclear from the context which Government is to perform a function or where the context indicates that both Governments are to perform a function, without abrogating or derogating from their obligations under the Agreement or altering their respective jurisdictions, the two Governments may designate one of them to perform that function on behalf of the other or both. The DIO shall be given notice of such designation.

No occasion to implement. Governments do not have formal procedures in place, should implementation be required.

Consultation (Undertakings as to Further Legislative Action)

- 2.6.1 Government shall consult closely with a DIO in the preparation of any legislation proposed to implement the Agreement, including any amendments to implementing legislation.

Has sometimes been met in the past, but is not currently being met. Good cooperation resulting in close consultation was reported in the drafting of legislation to implement Article 4, Nunavut Political Development. There are serious concerns reported about the preparation of other implementation legislation. These concerns are addressed in more detail in Sections 5.4.3, Consultation and 5.4.4, Legislation Establishing the IPGs.

Transfers of Powers Within Same Government

- 2.10.1 Any power vested in a Minister of the Government of Canada or in a Minister of the Executive Council of the Territorial Government, pursuant to the provisions of the Agreement, may be transferred to another Minister of the Government of Canada, or to another Minister of the Executive Council of the Territorial Government, respectively. A DIO shall be given notice of such transfer.

Is being partially met on an ongoing basis. NTI has sent DIAND and MAA the DIO listings on an irregular basis. MAA provided the required notice when the Departments of Renewable Resources and Economic Development and Tourism amalgamated. The Federal Government does not have an established notification process.

Identification of Government Official

- 2.10.4 Without diminishing or otherwise altering the responsibilities of Her Majesty The Queen in Right of Canada under the Agreement, where the Agreement does not identify a particular person or body responsible for exercising a function of Government, the Governor in Council, in the case of the Government of Canada, and the Commissioner in Executive Council, in the case of the Territorial Government, may designate a person or body to exercise that function on its behalf or authorize a Minister to make such a designation. A DIO shall be given notice of such designation.

Is being partially met on an ongoing basis. NTI has sent DIAND and MAA the DIO listings on an irregular basis. Government did not make many designations. No established notification processes were identified.

Observations

The Parties have not established formal processes for notification of designations. There are irregular informal exchanges of contact lists that identify positions or individuals having implementation responsibilities. Internal processes to disseminate information about designations, once notification is received, are in place in the GNWT and NTI.

All parties expressed the common frustration of not always knowing whom to contact.

Recommendations

All Parties should examine their procedures for notification (both obligated and operational) and amend them to meet obligations and operational requirements.

Topic Area: Languages of the Agreement

Inuktitut, English and French Versions

2.8.1 There shall be Inuktitut, English and French versions of the Agreement. The English and French versions shall be the authoritative versions.

Has been met. The Agreement has been translated and published. Amendments to the Agreement are contained in the Annual Report of the Implementation Panel.

Observations

Amendments to the Agreement and Implementation Contract are being distributed by their publication in the NIP Annual Report. There is no consolidated version of the Agreement. It was discovered that many officials implementing the Agreement did not know where to find these amendments, or even that amendments had been made.

Recommendations

The Parties should consider mechanisms for wider distribution of amendments to the Agreement.

The Parties should consider mechanisms for a consolidation of amendments to the Agreement and Implementation Contract.

Topic Area: Nunavut Political Development

General

- 4.1.1 The Government of Canada will recommend to Parliament, as a government measure, legislation to establish, within a defined time period, a new Nunavut Territory, with its own Legislative Assembly and public government, separate from the Government of the remainder of the Northwest Territories.
- 4.1.2 Therefore, Canada and the Territorial Government and Tungavik Federation of Nunavut shall negotiate a political accord to deal with the establishment of Nunavut. The political accord shall establish a precise date for recommending to Parliament legislation necessary to establish the Nunavut Territory and the Nunavut Government, and a transitional process. It is the intention of the Parties that the date shall coincide with recommending ratification legislation to Parliament unless Tungavik Federation of Nunavut agrees otherwise. The political accord shall also 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. The political accord shall be finalized before the Inuit ratification vote. It is the intention of the Parties to complete the Political Accord by no later than April 1, 1992.

Has been met. The Political Accord was signed April 27, 1992. The Accord covered all prescribed areas. The Federal Government recommended the *Nunavut Act* to Parliament and after passage, it received assent on June 10, 1993 with most provisions coming into force on April 1, 1999.

Observations

The Parties commented positively about the cooperative and successful process used for drafting the *Nunavut Act*.

Recommendations

None.

Topic Area: Nunavut Wildlife Management Board (NWMB)

Establishment of the Nunavut Wildlife Management Board (NWMB)

- 5.2.1 There is hereby established on the date of ratification of the Agreement an institution of public government to be known as the Nunavut Wildlife Management Board (NWMB) consisting of nine members to be appointed as follows:
- (a) each of four DIOs shall appoint one member;
 - (b) the Governor in Council
 - (i) on the advice of the Minister responsible for fish and marine mammals shall appoint one member to represent the public interest,
 - ii) on the advice of the Minister responsible for the Canadian Wildlife Service shall appoint one member,
 - (iii) on the advice of the Minister of Indian Affairs and Northern Development in consultation with the Commissioner-in-Executive Council shall appoint a third member ordinarily resident in the Nunavut Settlement Area;
 - (c) the Commissioner-in-Executive Council shall appoint one member; and
 - (d) from nominations provided by the NWMB, the Governor in Council shall appoint a chairperson.

Has been partially met. The NWMB was established in legislation on July 9, 1993. Activities to nominate and appoint board members were completed in December, 1993 and not upon ratification of the NLCA as scheduled. A chairperson was appointed in June, 1994. Members did not receive orientation or background materials before the first meeting in January, 1994.

- 5.2.6 Each member shall, before entering upon his or her duties as such, take and subscribe before an officer authorized by law to administer oaths an oath in the form set out in Schedule 5-4.

Is being met on an ongoing basis.

- 5.2.8 Where a vacancy occurs a replacement member may be appointed by the body that made the original appointment under Section 5.2.1.

Is being met on an ongoing basis. Reappointments are being made as required. The NWMB has instituted an orientation program for new board members.

Budgets (NWMB)

- 5.2.19 The cost of the NWMB shall be the responsibility of Government. The NWMB shall prepare an annual budget subject to review and approval by Government.
- 5.17 (Implementation Contract) The Government of Canada shall provide the NWMB with a single payment of \$11 million at the commencement of Year 1 for the establishment of a Wildlife Research Fund to pay for the conduct of research proposed by the Government of Canada or the Territorial Government and approved by the NWMB. The allocation of those funds for that purpose in any fiscal year and any reallocation to another fiscal year for that purpose is at the discretion of the NWMB.

Is being partially met on an ongoing basis. The funds to establish a Wildlife Research Fund and Inuit Bowhead Knowledge Study were not transferred as scheduled. NTI has expressed their concern about the delay. The NWMB prepares an annual budget which is subject to review and approval by DIAND. DIAND uses a contribution agreement to flow funds to the NWMB. The NWMB and NTI have objected to the form and content of the contribution agreement since 1994.

Remuneration of Members

5.2.20 Each member shall be paid fair and reasonable remuneration for work on the NWMB.

Is being met on an ongoing basis. The NWMB states the honoraria levels set for members do not reflect fair and reasonable remuneration given the complexity and breadth of their duties, and are lower than honoraria for boards with similar duties. The NWMB has so advised the Implementation Panel and DIAND. Honoraria levels are based on federal Treasury Board guidelines.

Research

5.2.37 There is a need for an effective system of wildlife management, and to be effective, the system of management requires an efficient, coordinated research effort. The NWMB in fulfilling its management functions requires an informed and effective role in wildlife research and its direction. The ability and right of the Government of Canada and Territorial Government to continue their own research functions shall not be prejudiced by this Section. Accordingly the NWMB shall:

- (a) identify research requirements and deficiencies pertinent to wildlife management and the rational utilization of wildlife resources, and promote and encourage on an ongoing basis, research aimed at meeting requirements and overcoming deficiencies;
- (b) identify relevant persons and agencies to undertake wildlife research;
- (c) review research proposals and applications, and where appropriate recommend on the acceptance or rejection of such proposals to the appropriate government agency;
- (d) collect, classify, and disseminate wildlife statistics and information and maintain a data base adequate for such purposes; and
- (e) carry out all other research functions consistent with its responsibilities.

Is being met on an ongoing basis. Government coordination with NWMB improved over the first five years of implementation and is now seen to be working well. The NWMB established policies for research funded by the Nunavut Wildlife Research Trust and other sources; identified research requirements and priorities; and established an inventory of relevant persons and agencies to undertake research. These governing authorities reflect the principles and objectives of 5.1.2 and 5.1.3 of the NLCA. Of the HTOs surveyed, approximately half felt the NWMB had worked closely with them in carrying out wildlife research. The same percentage felt the NWMB promoted the training and employment of Inuit in wildlife research and management. The vast majority reported there are no problems with wildlife research in their community.

The NWMB maintains an accessible resource library. There are a number of cooperative efforts between the NWMB and Government in the dissemination of research results. The NWMB is now working to improve online access to information about the status and results of research projects. The NWMB and government departments have addressed confidentiality issues through memorandums of understanding.

Federal and territorial departments did not identify a formal process for informing each other of research projects being conducted and planned. Informal processes varied and in most cases are seen as successful.

Legal Effect of Decisions (Territorial Government Jurisdiction)

5.3.7 All decisions made by the NWMB in relation to Subsection 5.2.34(a), (c), (d) or (f) or any of Parts 4 to 6 or Article 40 and subject to territorial government jurisdiction shall be made in the manner set out in Sections 5.3.8. to 5.3.15.

Legal Effect of Decisions (Government of Canada Jurisdiction)

5.3.16 All decisions made by the NWMB in relation to Subsection 5.2.34(a), (c), (d) or (f) or any of Parts 4 to 6 or Article 40 and subject to government of Canada jurisdiction shall be made in the manner set out in Sections 5.3.17 to 5.3.23.

Is being met on an ongoing basis. The NWMB has established procedures for legal review of all board decisions. Where government jurisdiction is affected, the obligations in 5.3.7 to 5.3.15 and 5.3.16 to 5.3.23 are implemented.

Disposition of Harvest

5.7.32 Notwithstanding the right of free disposition in Section 5.7.30, the Freshwater Fish Marketing Corporation may have a role to play in the marketing of freshwater fish outside the Nunavut Settlement Area. Inuit are dissatisfied with the current operations of the Corporation. The NWMB shall be responsible for examining the concerns of Inuit and shall advise the Minister on appropriate remedial action.

Has been met. Based on the advice of the NWMB, the Freshwater Fish Marketing Corporation no longer considers char a freshwater fish. With this action, the NWMB considers the expressed concerns addressed and no further action is planned.

Observations

The reason for delays in making appointments and conveying research monies was not discovered. Since establishment, the NWMB has adopted a General By-law, Operating Procedures, policies and operational practices. These authorities govern the implementation of obligations related to the authority and mandate of the NWMB, application of principles and objectives contained in Article 5, location of its head office, conduct of meetings, voting, language of business, status at public hearings, rules relating to conflict of interest, confidentiality, research, et cetera. Government departments comment favourably on the administration and effect of the Wildlife Research Trust.

A review of NWMB minutes, files and publications confirms the NWMB is implementing obligations as required by the letter and the spirit and intent of the NLCA. The results of the HTO survey support this conclusion.

The issue related to the level of honoraria for board members is outstanding.

Recommendations

Where appropriate, Government and the NWMB should develop and implement formalized communication processes.

The Parties should consider the recommendations in Section 5.4.6, Funding Arrangements for the IPGs to resolve outstanding financial administration issues.

Topic Area: Operations of the Nunavut Wildlife Management Board

Nunavut Wildlife Harvest Study

- 5.4.1 A Nunavut Wildlife Harvest Study (Study) shall be undertaken in, and cover, each of the three Regions of the Nunavut Settlement Area. Terms of reference for the Study are set out in Schedule 5-5.
- 5.4.2 The Study shall begin in each of the three Regions on or before the first anniversary of the date of ratification of the Agreement. The Study shall be carried out under the direction of the NWMB. *The NLCA was amended to change the required commencement of the Study from July 9, 1994 to January 1, 1996.*
- 5.4.3 The research, data collection and fieldwork associated with the Study shall be designed to promote maximum harvester participation and shall be contracted to an appropriate DIO, and supervised by the NWMB.
- 5.4.4 The Study shall be undertaken over a period of five years, and shall be fully funded by Government. The NWMB shall prepare a budget for the Study which will be subject to review by Government.
- 5.4.6 Raw and interpreted data produced from the Study shall be fully and freely available to the Government of Canada, the Territorial Government and Inuit.
- 5.4.9 The NWMB shall report annually on the progress of the Study. Upon completion of the Study, the NWMB shall publish a comprehensive summary of the findings of the research.

Is being met on an ongoing basis. An NWMB steering committee, which included government representation, oversaw the development of the Study methodology and design consistent with the terms of reference contained in Schedule 5-5. The vast majority of HTOs surveyed reported that they were consulted about the Study design. Study budgets have been prepared and funded by Government as identified in the Implementation Contract. RWOs were designated as DIOs in August, 1995 and contracted to perform research, data collection and fieldwork. The Study started in full in June, 1996. One of the techniques used to promote maximum harvester participation is a series of confidentiality provisions in the handling and storage of data. Raw and interpreted data is available to Government and Inuit subject to confidentiality provisions. The NWMB is publishing preliminary reports of harvest data, by community, to assist in confirming the integrity of Study data. An annual report on the progress of the Study is contained in the Annual Report of the NWMB. The Study is on schedule for completion in 2001 and for publication of final reports by 2003.

Inuit Bowhead Knowledge Study

- 5.5.2 The NWMB shall conduct an Inuit knowledge study to record sightings, location and concentrations of bowhead whales in the Nunavut Settlement Area. The study shall be completed within five years of the date of ratification of the Agreement. The amount of \$500,000 shall be included in the NWMB budget for this study.

Has been partially met. The NWMB received \$500,000 from the Federal Government for the Study. As noted under 5.2.19 and 5.17 above, NTI expressed concerns about the timing of payment. The Study has not been completed. The Study began in March 1995 and two reports on progress were published (November, 1995 and February, 1997). The NWMB expects to complete the Study in 1999.

Total Allowable Harvest

- 5.6.18 By the first anniversary of the commencement of the study pursuant to Part 5, the NWMB shall establish a total allowable harvest for harvesting by Inuit in the Nunavut Settlement Area of at least one bowhead whale, subject to Sections 5.3.3 to 5.3.6 and considering the results of the study to date and other information as may be available to it. For greater certainty, the decision of the NWMB respecting the total allowable harvest is subject to Sections 5.3.16 to 5.3.23. Thereafter, the total allowable harvest shall be dealt with by the NWMB from time to time under Sections 5.6.16 and 5.6.17, considering the results of the study and other information as may become available.

Is being met on an ongoing basis.

Basic Needs Level (beluga, narwhal and walrus)

- 5.6.25 The NWMB shall establish the basic needs levels for beluga, narwhal and walrus within 12 months of the NWMB being established taking into account the fact that they are in short supply in some areas and therefore that the harvest by Inuit has been and is artificially low in relation to their needs and does not necessarily reflect their full level of needs. *The NLCA was amended to change the deadline for establishment of these basic needs levels to March 31, 1997.*

Is not being met on an ongoing basis. Basic needs levels were not set during the review period. NWMB, working with DFO and RWOs, developed approaches to addressing the obligation. The NWMB kept the Implementation Panel up to date on progress and reported on decisions taken in August, 1998 related to narwhal and beluga and plans related to walrus. The NWMB's position is that the establishment of basic needs levels and the revision of the management systems are a simultaneous process.

Observations

The NWMB has ensured that Inuit, the Implementation Panel and the general public are aware of progress in implementing obligations through a variety of means. Where deadlines could not be met, the NWMB has been proactive in seeking consideration to amend the NLCA and/or Implementation Contract.

Recommendations

None.

Topic Area: Harvesting

Inuit Guides

- 5.6.41 A person other than an Inuk who harvests big game must:
- (a) hold a valid licence issued by the appropriate government agency; and
 - (b) for at least two years following the acquisition of the licence, be accompanied by an Inuk approved as a guide by an HTO in accordance with any qualifications established by the NWMB.
- 5.6.42 The requirement for a guide referred to in Subsection 5.6.41(b) shall not apply where the HTO waives such requirement or where no guides are approved by an HTO.

Has not been met. No deadline was set for meeting this obligation. The NWMB has not established qualifications for Inuit guides. Government has not adapted licensing procedures. The NWMB has not received formal advice from Government or HTOs respecting qualifications for Inuit guides (although the majority of HTOs surveyed state there are Inuit guides in their community). The NWMB commissioned an "Assessment of Big Game Hunting Guide Qualifications for Nunavut" that was completed in July, 1998. The NWMB will use this Assessment to consult with involved HTOs and RWOs to assist in establishing qualifications.

Limited Entry System

- 5.6.45 In the allocation of commercial licences, preference will be given to:
- (a) an applicant who has made his principal residence in the Nunavut Settlement Area for at least 18 continuous months prior to the submission of his or her application and such residence must be real and not notional; and
 - (b) applications which will likely provide direct benefits to the Nunavut Settlement Area economy, in particular through employment of local human and economic resources.

Is being partially met on an ongoing basis. Governments have not changed licensing regimes. The NWMB is awaiting completion of the Nunavut Wildlife Harvest Study before considering adjustments to current harvesting levels. In the interim, coordination of activities is achieved through formal and informal communication activities (for example, weekly staff working group meetings) between the NWMB and Government.

Disposal of Valuable Parts – Emergency Kills

- 5.6.55 Valuable parts of wildlife killed under Sections 5.6.52 and 5.6.53 shall be disposed of by the NWMB to the appropriate RWO.

Is being partially met on an ongoing basis. Implementing this obligation has proved to be more complex than first thought. The NWMB is working with HTOs and RWOs to address implementation. In the interim, existing notification procedures are being followed.

Observations

Existing licensing regimes are still in place. Government officials state they are aware of their obligations under the NLCA and administering existing regimes within that context.

Documentation was not provided in support of this assertion. The NWMB cannot provide advice or direction until the Wildlife Harvest Study is complete and/or HTO and RWO positions about implementing certain obligations are developed. The Government of Nunavut will assume responsibility for amending territorial legislation.

Recommendations

The NWMB should continue to support HTOs and RWOs in the development of positions related to the implementation of obligations.

Government should document changes in their administration of current licensing regimes.

The recommendations in Section 5.4.5, New and Revised Laws of General Application should be considered.

Topic Area: Special Features of Inuit Harvesting

Establishment of HTOs and RWOs

5.7.2 Each community, and each outpost camp that prefers a separate organization, shall have an HTO. Membership in each HTO shall be open to all Inuit resident in a community. Each HTO may, by by-law, provide for classes of non-voting membership and privileges that flow therefrom, and may distinguish between persons who are Inuit by descent or custom, but who are not enrolled under Article 35 and other persons. Existing community Hunters and Trappers Associations may, subject to their adaptation to the provisions of this Article, act as HTOs. Two or more HTOs may join together for the purpose of discharging their functions over any or all species of wildlife on a joint basis.

Is being met on an ongoing basis.

5.7.4 Each Region shall have an RWO. The Kitikmeot Wildlife Federation, the Keewatin Wildlife Federation and the Baffin Region Hunters and Trappers Association may, subject to their adaption to the provisions of this Article, act as RWOs.

Is being met on an ongoing basis. RWO By-laws adopt the provisions as required.

Budgets

5.7.13 Adequate funding for the operation of HTOs and RWOs shall be provided by the NWMB.

Is being met on an ongoing basis. The NWMB has a policy in place for funding RWOs and HTOs. Funds flow for core-funding and to RWOs for the Nunavut Wildlife Harvest Study. The General By-law of the NWMB requires the NWMB to review the budgets of RWOs and HTOs prior to adopting its own budget. RWOs have expressed concern about the level of funding available for board training and HTO support. The HTOs surveyed generally expressed concern about the level of funding provided but did not identify which operations are under-funded.

Licensing and Permit Requirements

5.7.26 Subject to the terms of this Article, an Inuk with proper identification may harvest up to his or her adjusted basic needs level without any form of licence or permit and without imposition of any form of tax or fee.

5.7.28 Where any economic venture referred to in Section 5.6.39 has been approved in accordance with terms of this Article, a licence shall be issued forthwith by the appropriate Minister at a fair fee in accordance with the laws of general application.

5.7.29 Inuit may be required to obtain a licence from the responsible management agency for the harvest of those species of cetaceans not regularly harvested during the 12 months preceding October 27, 1981. Such licences shall not be unreasonably withheld or subject to an unreasonable fee.

5.7.31 An Inuk may be required by the appropriate government agency to obtain a permit to transport wildlife outside the Nunavut Settlement Area. If such a permit is required, the federal or territorial government agency shall issue the permit upon demand, unless it has good cause for refusing, and the permit may contain terms and conditions as established by laws of general application. Unless the wildlife in question has been harvested from the surplus, any fee for such permit shall be waived.

5.7.36 Upon proof of a promise to assign under Sub-section 5.7.34(b), a licence shall not be unreasonably withheld from a promised assignee who is an Inuk, by descent or custom. Such licence shall be issued without charge.

Has not been met. Implementation of this obligation has varied among regions. In some it is not seen as a high priority given "everyone knows everyone" in smaller communities. Of HTOs surveyed, 25% reported there was a system in place for "proper identification." There has been some discussion of using enrollment cards to implement the "proper identification" requirement. The NWMB and licensing agencies did not receive notification about the adoption of this approach during the review period. Government has not amended licensing regimes for these other obligations. Some departments have taken the position that the NLCA supercedes licensing legislation and, therefore, legislative revision is unnecessary. At a minimum, this position creates administrative and operational problems for those wishing to harvest and for those administering the licensing regime. Other departments take the position that until all issues relating to licensing are clarified, no amendments will be made to existing regimes. This approach relies on knowledgeable operations staff to adjust their administration of licensing regimes and incorporate obligations under the NLCA.

Assignment (of Inuit Harvesting Rights)

5.7.34 Subject to Section 5.7.3 an Inuk, and subject to Section 5.7.6, an RWO or an HTO may, except as provided for in Section 5.7.35:

(a) assign the right to harvest to

(i) an Inuk, or

(ii) the spouse or person cohabiting as the spouse of an Inuk,

and in all such cases the assignment of the right to harvest shall of itself also carry with it that share of the total allowable harvest as stated in the assignment; and

(b) assign part or all of his, her or its share of the total allowable harvest to a person qualified to harvest under laws of general application.

Is being partially met on an ongoing basis. Implementing this obligation has been more complex than first thought. A form for individual assignment of harvesting rights has been developed with the involvement of RWOs and HTOs. Its use is uneven among the regions. The RWOs have not developed procedures for the assignment of harvesting rights under 5.7.6. Of HTOs surveyed, 75% stated they had a system for assignment in place. No details about such systems or having advised the NWMB were forthcoming.

Observations

Implementation of the special features of Inuit harvesting has been more complicated than first thought. RWOs and HTOs have concentrated on establishing their operations before turning to implementation of these complicated issues. RWOs have recently worked with NTI and the NWMB to identify the work needed to implement these and other obligations. Action plans describing required tasks, assignments and completion dates have been developed as a result. The approaches taken by government departments to implement obligations have varied, but none have resulted in revisions to legislation or regulation governing licensing regimes.

Recommendations

The NWMB and NTI should continue to work with RWOs and HTOs to implement obligations.

The recommendations in Section 5.4.5, New and Revised Laws of General Application should be considered.

In the interim, Government should revise their administrative (or other) procedures to provide operational direction in meeting obligations.

Topic Area: Surface Leases

Surface Lease Conditions

- 5.7.21 Where a surface lease of land in the Nunavut Settlement Area in existence on or before the date of ratification of the Agreement is, after the date of ratification of the Agreement,
- (a) to be renewed, or
 - (b) to be transferred and Government consent is required, Government shall insert in the renewed or transferred lease a condition to the following effect:
"This lease is subject to any rights of Inuit under their final land claims agreement to enter on to land in the Northwest Territories to pursue, capture, kill, or remove, or any of them, any wildlife, wildlife parts, or wildlife products therefrom; and the provision of any such agreement relating to the right of access shall form a part of this lease as if contained herein."
- 5.7.22 The obligation set out in Section 5.7.21 shall not apply to any lease for an area which is less than one square mile, or where Government would incur legal liability were such condition to be inserted, and a certificate under the hand of the Deputy Minister of Justice shall be sufficient evidence of such fact. Government shall notify the DIO of all applications for and granting of surface leases.

Is being met on an ongoing basis. NTI designated QIA as the DIO. Designation of the other two RIAs is pending. MACA reviewed their leases and concluded none are affected by this obligation. DIAND has developed and implemented procedures to meet these obligations. DIAND has included all RIAs on distribution lists for notification.

Observations

None.

Recommendations

None.

Topic Area: Rights of First Refusal

Rights of First Refusal and to Use Government Land (Sports and Naturalist Lodges)

- 5.8.1 DIOs shall have the right of first refusal to establish new sports lodges and naturalist lodges in the Nunavut Settlement Area subject only to the following conditions:
- (a) Government is under no obligation to disclose any matter in an application which has been submitted on the faith of it being kept confidential;
 - (b) all material environmental and economic information available to any government agency independent of the application itself but pertinent thereto shall be made available to a DIO exercising the right of first refusal;
 - (c) generally, the procedures and time requirements conforming to current practice and, specifically, the steps set out in Schedule 5-6 shall be followed; and
 - (d) if a DIO exercises a right of first refusal, but subsequently fails to establish a new sports lodge or naturalist lodge in accordance with Schedule 5-6 without just cause, the Minister may declare that its right of first refusal has lapsed; in such circumstances, the area may be made available to other applicants and the DIO shall not have a further right of refusal over such applicants, except at the discretion of the Minister.
- 5.8.2 Upon request, Government shall lease, at usual rent, adequate and suitable lands to DIOs as are reasonably necessary for the purpose of establishing and operating sports lodges and naturalist lodges.

Is being partially met on an ongoing basis. NTI has not designated DIOs. GNWT procedures have not been amended. DIAND has amended procedures to implement this obligation.

Right of First Refusal to Establish and Operate Facilities (Propagation, Cultivation and Husbandry)

- 5.8.4 DIOs shall have the right of first refusal to establish and operate facilities, other than government facilities, for the purpose of indigenous wildlife and reindeer propagation, cultivation or husbandry. The conditions referred to in Sub-Sections 5.8.1(a), and (b) in relation to sports lodges and naturalist lodges shall apply. Procedures and time periods conforming to current practice and comparable to those set out in Schedule 5-6 shall apply.
- 5.8.5 Upon request, Government shall make available to DIOs, at a nominal cost, such lands as are adequate, suitable and reasonably necessary for the purpose of establishing and operating facilities for propagation, cultivation or husbandry of indigenous wildlife or reindeer. The lands may be granted in fee simple, under lease or by license of occupation or in such other manner as to implement the intent of Section 5.8.4 and this Section.

Is being partially met on an ongoing basis. NTI has not designated DIOs. The GNWT and DFO procedures have not been amended. DIAND has amended procedures to implement this obligation.

Right of First Refusal to Market (Marketing of Wildlife in the Nunavut Settlement Area)

- 5.8.7 DIOs shall have the right of first refusal to market wildlife, wildlife parts and wildlife products in the Nunavut Settlement Area. The conditions referred to in Sub-Sections 5.8.1(a) and (b) in relation to sports lodges and naturalist lodges shall apply. Procedures and time periods conforming to current practice and comparable to those set out in Schedule 5-6 shall apply.

Is not being met on an ongoing basis. NTI has not designated DIOs. RWED and DFO procedures have not been amended. No requests to exercise the right of first refusal were made during the review period.

Right of First Refusal for Commercial Collection or Processing of Non-Edible Wildlife Parts (Wildlife Parts and Products)

5.8.9 DIOs shall have the right of first refusal to carry out any venture aimed at the commercial collection or processing of non-edible wildlife parts and wildlife products. The right of first refusal shall extend to non-edible wildlife parts and wildlife products available as a consequence of a kill or as recoverable in an inanimate form. The conditions referred to in Sub-Sections 5.8.1 (a) and (b) in relation to sports lodges and naturalist lodges shall apply. Procedures and time periods conforming to current practice and comparable to those set out in Schedule 5-6 shall apply.

Is not being met on an ongoing basis. NTI has not designated DIOs. Government has not amended procedures. No requests to exercise the right of first refusal were made during the review period.

Observations

NTI is in the process of discussing designations with Inuit organizations. The procedures DIAND has put in place to implement their obligations are thorough. Other federal departments and the GNWT advise that staff are aware of the obligations, but that procedures have not been amended.

Recommendations

The affected territorial and federal departments should establish processes and procedures to implement obligations related to rights of first refusal.

Topic Area: Interjurisdictional Agreements

Inuit Representation (International Agreements)

5.9.2 The Government of Canada shall include Inuit representation in discussions leading to the formulation of government positions in relation to an international agreement relating to Inuit wildlife harvesting rights in the Nunavut Settlement Area, which discussions shall extend beyond those discussions generally available to non-governmental organizations.

5.9.3 Inuit representatives referred to in Section 5.9.2 shall be nominated by a DIO.

Is being partially met on an ongoing basis. NTI has retained the DIO designation. In some cases, the NWMB, an institution of public government, has been included in discussions, rather than NTI on behalf of Inuit. DFO and EC do not have formal procedures for notifying NTI about discussions nor for including Inuit representation.

Role of NWMB (Domestic Interjurisdictional Agreements)

5.9.5 Government agrees that NWMB shall have a role in the negotiation or amendment of domestic interjurisdictional agreements commensurate with its status and responsibilities in the management of wildlife in the Nunavut Settlement Area.

Is being partially met on an ongoing basis. There is no formal process in place for involving the NWMB in negotiations. However, by practice, Government has involved the NWMB in certain negotiations. The NWMB has noticed improvements over the review period.

Observations

Inuit and NWMB involvement in discussions or negotiations is dependent upon informal practices and the knowledge of officials about the obligation.

Recommendations

Government should formalize their implementation of these obligations through standing procedures.

Government should widely distribute the recommended standing procedures within involved departments.

Topic Area: Wildlife Compensation

Designating Official and/or Fund to Assume Liability

- 6.2.3 The Government of Canada shall specify a person, a fund, or both, capable of assuming the liability for marine transportation imposed under this Article by Section 6.2.2, and that specified person, or fund, or both, shall be considered to be a developer and that marine transportation shall be considered to be a development activity for the purpose of this Article.

Has not been met. The Government of Canada intends to meet implementation of this obligation through proposed legislation Bill C-62 *Nunavut Waters and Nunavut Surface Rights Tribunal Act*. The Bill received first reading in December, 1998.

Limits of Liability in Legislation

- 6.3.4 Legislation may provide for appropriate limits of liability of developers or the methods of setting such limits and shall also require proof of fiscal responsibility and may also provide for security deposits and any other matters not inconsistent with this Article. Recognizing Inuit concerns regarding collection of compensation, Government will give consideration to including enforcement mechanisms. Limits on liability will be set at levels sufficient to cover reasonably foreseeable damages in relation to various development activities.

Has not been met. The Government of Canada intends to meet implementation of this obligation through proposed legislation Bill C-62 *Nunavut Waters and Nunavut Surface Rights Tribunal Act*. The Bill received first reading in December, 1998. NTI takes the position that the content of Bill C-62 would not implement the obligations under 6.3.4. Specifically, the limit on a developer's liability is inadequate; and, there is no requirement for proof of a developer's fiscal responsibility, for provision for security deposits by developers and for enforcement mechanisms for collecting compensation. NTI also states that regulations, including security deposit and enforcement mechanisms, should be developed concurrently with legislation to implement 6.3.4.

Observations

Implementation of these obligations has been tied to the drafting and passage of IPG legislation. This larger issue is dealt with in Section 5.4.4, Legislation Establishing IPGs. The substantive concerns raised by NTI have been issues throughout the review period. Consultations between NTI and DIAND (and federal Justice) resulted in the proposed limit to a developer's liability moving from \$1 million to \$20 million. NTI still does not accept DIAND's basis for establishing this figure and commissioned its own report that concluded the proposed limit to liability is low by at least 100%. It is not known whether NTI shared this report with DIAND. Commenting on an appropriate liability limit or the results of Government considerations is beyond the scope of this Review. What is clear, is that the respective positions concerning the implementation of 6.3.4 have not been reconciled between the Parties. There is no indication that either Party has considered a referral to the NIP or a reference to the Arbitration Board to resolve these outstanding disputes. See Section 5.3.4, The Dispute Resolution Processes.

Recommendations

The recommendations in Section 5.4.4, Legislation Establishing the IPGs should be considered.

In terms of the substantive issues, the Parties should consider the discussion in Section 5.2.10, Delegation and Tracking of Implementation Management, and the recommendations contained in Section 5.3.4, The Dispute Resolution Processes.

Topic Area: Outpost Camps

Approvals

- 7.2.2 From the date of ratification of the Agreement, Inuit may, subject to the exceptions mentioned in Sections 7.2.3 and 7.2.4, and also subject to the approval of the appropriate HTO or HTOs, establish and occupy new outpost camps in any lands in the Nunavut Settlement Area where Inuit enjoy a general right of access for the purpose of wildlife harvesting as granted by Section 5.7.16.

The approval of the appropriate HTO or HTOs shall not be unreasonably withheld.

Is being partially met on an ongoing basis. There is not a wide understanding that HTOs are required to approve outpost camps or of what an outpost camp is, as defined in the NLCA.

Site Locations – Parks and Conservation Areas

- 7.2.4 Inuit may establish outpost camps in Parks and Conservation Areas, except where the establishment of such camps is inconsistent with the requirements of the Park or Conservation Area management plan required in Sections 8.4.13 and 9.3.7. Site locations shall be determined as provided by an IIBA between the DIO and the appropriate management agency.

No occasion to implement. There have been no reports of outpost camps established in Parks or Conservation Areas since the NLCA was ratified.

Government to Make Lands Available

- 7.4.1 Upon request by potential occupiers of outpost camps or by a DIO on their behalf, governmental owners of lands in the Nunavut Settlement Area shall make available, such lands as are adequate, suitable and reasonably necessary for the purpose of establishing outpost camps. The lands may be provided under lease or by license of occupation or in such other manner as to implement the intent of this section. The term shall be for five years or such longer period as may be reasonable. Renewal of a lease, upon request by the occupiers or by the DIO on their behalf, shall not be unreasonably withheld. Where an outpost camp is requested for establishment in Parks and Conservation Areas, Section 7.2.4 will apply.

Is being met on an ongoing basis. DIAND has implemented procedures to provide lands for outpost camps upon request. To date, one lease has been applied for and was subsequently issued in 1995/96. The RIAs were not aware of any requests to make government-owned lands available for outpost camps.

Outpost Camps on Archaeological Sites

- 7.6.3 Inuit may establish, subject to Section 7.2.4, outpost camps on archaeological sites. The Trust may develop policy guidelines for the use and occupation of archaeological sites. The Trust may put in place terms and conditions regarding the use and occupation of a site or sites.

No occasion to implement. The RIAs and the IHT report no outpost camps have been established on an archaeological site.

Observations

There has not been a focus by HTOs on this Article. The survey of selected HTOs reported some formal process, by some HTOs, in place to implement this Article. However, the general awareness among the users and administrators of outpost camps of their obligations needs improvement. For the most part, residents have gone on doing what they used to do. No significant concerns have been raised.

According to the NLCA, an outpost camp is a location occupied by families or other groups of Inuit for more than several days or weeks a year for harvesting and the associated use and enjoyment of lands. Commercial use, buildings and minimum stays of six months or more are not part of the definition. Some Inuit organizations see an outpost camp as buildings occupied for more than a year, while others see a tent in a location for a week as an outpost camp.

Recommendations

NTI should ensure that all the HTOs and Inuit clearly understand that the NLCA requires HTO approval for new outpost camps.

HTOs should work with NTI and the RIAs in developing a communications strategy to make the residents of their communities aware of the definition of an outpost camp and that the NLCA requires them to have the approval of their HTO for outpost camps established after July 9, 1993.

HTOs should have written policies and procedures for approving outpost camps.

Topic Area: National Parks

Establishment of National Parks

- 8.2.1 It is desirable to establish National Parks in National Parks Natural Regions 39, 38, 37, 36, 28, 26, 25, 17, 16 and 15. The Canadian Parks Service shall work with the DIO, affected communities, and the Territorial Government to establish National Parks required by the Government of Canada in the Nunavut Settlement Area to complete representation of those National Park Natural Regions, recognizing that only National Park Natural Regions 39, 37 and 26 lie exclusively within the Nunavut Settlement Area.

Has not always been met in the past, but is currently being met. Initially, the Canadian Parks Service continued to work with ad hoc community groups from the impacted communities rather than through DIOs. NTI designated QIA as the DIO in December, 1994. It took the DIO time to prepare community members to negotiate with the Canadian Parks Service. It also took some adjustment by the Canadian Parks Service to incorporate and implement the new NLCA regime.

Establishment of Auyuittuq National Park

- 8.2.2 Auyuittuq National Park Reserve shall become a National Park on the first anniversary of the conclusion of an IIBA pursuant to Section 8.4.4 unless it has been established at an earlier date. The Parties commit themselves to negotiate and to conclude an IIBA for Auyuittuq National Park within two years of the date of ratification of the Agreement. The boundaries of Auyuittuq National Park on the date of establishment and the boundaries of Auyuittuq National Park Reserve on the date of ratification shall be as defined in Schedule 8-1. *The NLCA was amended to extend the deadline to negotiate and conclude an IIBA to July 9, 1997.*

Establishment of Ellesmere Island National Park

- 8.2.3 Ellesmere Island National Park Reserve shall become a National Park on the first anniversary of the conclusion of an IIBA pursuant to Section 8.4.4, unless it has been established at an earlier date. The Parties commit themselves to negotiate and to conclude an IIBA for this National Park within two years of the date of ratification of the Agreement. The boundaries of this National Park on the date of establishment shall be as defined in Schedule 8-2. *The NLCA was amended to extend the deadline to negotiate and conclude an IIBA to July 9, 1997.*

Establishment of North Baffin National Park

- 8.2.4 The area withdrawn by Order-In-Council P.C. 1992 - 345 dated 27 February 1992 for a National Park in North Baffin shall become a National Park on the first anniversary of the conclusion of an IIBA pursuant to Section 8.4.4 unless it has been established at an earlier date. The Parties commit themselves to negotiate and to conclude an IIBA for this National Park within three years of the date of ratification of the Agreement. The boundaries of this National Park on the date of establishment shall be as defined in that Order in Council unless otherwise agreed to by the Government of Canada and the DIO.

Has not been met. Despite extensions to the deadline for IIBA negotiations, no parks were established during the review period. An IIBA covering all three proposed parks was signed on August 12, 1999. The boundaries of the proposed parks remain as previously defined, with the exception of mutually agreed technical adjustments.

Observations

None.

Recommendations

None.

Topic Area: National Parks

Changes to National Parks

- 8.2.6 Where the Government of Canada at any time intends to redraw the boundaries of a National Park, or otherwise act, so as to remove lands from a National Park, it shall:
- (a) first conduct an extensive process of public consultation; and
 - (b) offer the lands to the DIO
 - (i) at a favourable price where the Government of Canada intends to dispose of the land, or
 - (ii) at the election of the DIO, in exchange for a comparable amount of Inuit Owned Lands; but this election shall not apply in circumstances where the Government of Canada intends to remove the lands from National Park status solely for the purpose of establishing its own facilities or operations on the lands in question.

No occasion to implement. A technical change to a proposed park's boundary was requested and implemented August 21, 1998 by way of an amendment to Schedule 8-1.

Observations

None.

Recommendations

None.

Topic Area: National Parks

Water Use in National Parks

- 8.2.12 Water use in the National Parks shall be regulated in accordance with park management plans and laws of general application. The jurisdiction of the NWB within National Parks shall be determined in relevant legislation. Where water use in National Parks affects Inuit water rights in Inuit Owned Lands, Inuit shall be entitled to compensation as set out in Article 20 or in relevant IIBAs.

Has not been met. After the review period, Inuit water rights in Inuit Owned Lands were addressed in IIBAs for federal parks.

Observations

The NWB legislation has not been passed (see Section 5.4.4, Legislation Establishing the IPGs for further discussion and recommendations) and the parks were not created in the prescribed period. Water use in Auyuittuq National Park Reserve and Ellesmere Island National Park Reserve was regulated under draft management plans during the review period. Compensation for water rights in Inuit Owned Lands under Article 20 of the NLCA was addressed in the IIBA signed August 12, 1999.

Recommendations

None.

Topic Area: Territorial Parks

General Desirability

- 8.3.2 Where the Territorial Government at any time intends to redraw the boundaries of a Territorial Park, or otherwise act, so as to remove lands from a Territorial Park, it shall:
- first conduct an extensive process of public consultation; and
 - offer the lands to the DIO
 - at a favourable price where the Territorial Canada intends to dispose of the lands, or.
 - at the election of the DIO, in exchange for a comparable amount of Inuit Owned Lands; but this election shall not apply in circumstances where the Territorial Government intends to remove the lands from Territorial Parks status solely for the purpose of establishing its own facilities or operations on the lands in question.

No occasion to implement. There has been no redrawing of boundaries or action to remove lands from Territorial Parks. NTI has designated QIA and KitIA for implementation of this obligation, should it arise. Designation of KivIA is pending.

Involvement of Inuit in Planning and Management of Territorial Parks in the Nunavut Settlement Area

- 8.3.4 The territorial government and Inuit agree to the general desirability of involving Inuit, and other local residents, in the planning and management of Territorial Parks in the Nunavut Settlement Area. Accordingly, in addition to all other rights and benefits of these provisions, Inuit and other local residents of the Nunavut Settlement Area shall be involved in the planning and management of Territorial Parks in the Nunavut Settlement Area.

Is being partially met on an ongoing basis. Inuit are members of committees involved in planning and management of Territorial Parks. The process for establishing such committees does not appear to benefit from the input of NTI and RIAs.

Observations

The Territorial Government is implementing the obligation through the committees which are involved in the planning and management of existing and new parks. Membership on each of these committees includes Inuit and other local residents.

NTI is only aware of two parks, Bloody Falls and Mount Pelly, in which Inuit have been involved in the planning and management. For the remaining parks, NTI is not aware of the process to involve Inuit, or the extent of such involvement, in the management and planning of Territorial Parks.

Implementation of this obligation would be enhanced with further dialogue between the Territorial Government, NTI and the RIAs to clarify the process for involving Inuit in the planning and management of Territorial Parks.

Recommendations

The Territorial Government, NTI and RIAs should agree upon a process to involve Inuit and other local residents in the planning and management of Territorial Parks.

Topic Area: National and Territorial Parks

Inuit Impact and Benefit Agreements (IIBAs)

- 8.4.2 No Park shall be established in the Nunavut Settlement Area until the obligations set out in Sections 8.4.4 and 8.4.5 have been complied with.

No occasion to implement. Government did not declare establishment of any new parks during the review period. The effective number of Territorial Parks is discussed in Section 5.4.8, IIBAs - National and Territorial Parks.

- 8.4.4 Prior to the establishment of a Park in the Nunavut Settlement Area, the Government responsible for the establishment of the Park, and in the case of the Government of Canada, the Canadian Parks Service in concert with other affected federal government agencies, and a DIO shall negotiate, in good faith, for the purpose of concluding an IIBA. An IIBA negotiated under this Article shall include any matter connected with the proposed park that would have a detrimental impact on Inuit, or that could reasonably confer a benefit on Inuit either on a Nunavut-wide, regional or local basis. In particular, but without limiting the generality of the foregoing, the matters identified in Schedule 8-3 shall be considered appropriate for negotiation and inclusion within an IIBA in relation to a Park.

Is being met on an ongoing basis by the Federal Government. It would appear that the Wager Bay IIBA negotiations are benefitting from the lessons learned during the negotiation of the three Baffin parks (see 8.2.2, 8.2.3 and 8.2.4 above).

Is not being met on an ongoing basis by the Territorial Government. Discussions between the Parties during the review did not result in progress towards concluding IIBA(s).

Conciliator

- 8.4.5 If the Government responsible for the establishment of the Park and the DIO cannot agree on the terms of an IIBA in a reasonable period of time, they shall select a conciliator who shall submit a report to the Minister, for his consideration and decision. The obligation to conclude an IIBA with respect to any proposed Park, shall endure only as long as the other party is acting in good faith and reasonably. This Section shall not derogate from the requirement of Sections 8.4.11 to 8.4.14.

Has not been met by the Federal Government and the DIO. A conciliator was not selected by the parties over the six years it took to negotiate the Baffin Parks IIBAs.

Is not being met on an ongoing basis by the Territorial Government, NTI, and the DIO. The parties did not negotiate IIBAs within the prescribed time-frame for existing parks. A conciliator was not selected to assist in the resolution of outstanding issues.

Observations

None.

Recommendations

The Government of Nunavut, NTI, and the DIO(s) should agree to a definite time-frame in which to negotiate IIBA(s) for both existing and new Territorial Parks. If they are unable to reach agreement within a reasonable time period, then the provisions of 8.4.5 (Conciliator) should be implemented.

Inuit Impact and Benefit Agreements (IIBAs) for Existing Territorial Parks

8.4.6 With respect to Territorial Parks that have been established prior to and continue to exist at the date of ratification of the Agreement, the Territorial Government and DIO are obligated to conclude an IIBA prior to the fifth anniversary of the date of ratification of the Agreement.

Has not been met. There is little evidence of any progress implementing this obligation during the review period.

Renewal of Inuit Impact and Benefit Agreements (IIBAs)

8.4.7 Except where an IIBA in good standing indicates otherwise, every agreement shall be renegotiated at least every seven years.

No occasion to implement. The only IIBA for Federal Parks was signed after the review period on August 12, 1999. It contains an indefinite term and may be amended with the consent of all parties. NTI concluded that it could not afford to renegotiate an IIBA every seven years, especially when initial negotiations took six years.

No IIBAs have been negotiated between the Territorial Government and DIOs.

Observations

Post review, the parties have met and discussed an umbrella IIBA and extensions to prescribed deadlines. The Panel has also become involved in discussions related to extensions.

Recommendations

The Government of Nunavut and the DIO(s) should agree to a definite time-frame to negotiate IIBAs for both existing and new Territorial Parks. If they are unable to reach agreement within a reasonable time period, then the provisions of 8.4.5 (Conciliator) should be implemented.

Preferential Treatment to Inuit

8.4.8 Where Government intends to contract for the establishment, operation or maintenance of park facilities in the Nunavut Settlement Area, Government shall:

- (a) give preferential treatment to qualified Inuit contractors where Government proposes to tender such contracts; and
- (b) ensure that all contractors give preferential treatment to Inuit.

Is being met on an ongoing basis by the Federal Government. It is the policy of regional units to source Inuit first, Nunavut second and Northern third. Parks Canada uses the list of Inuit owned firms, attempts to break down contracts, and has offered procurement clinics.

Is being met on an ongoing basis by the Territorial Government. Territorial Parks meets this obligation by adhering to Article 24.

Observations

Parks Canada's proactive steps towards instituting local policies to carry out obligations under the NLCA sets an example. However, neither Federal nor Territorial Parks are broadly perceived as procuring locally. NTI has raised contracting for a trail to the proposed Bloody Falls Territorial Park as an example of the lack of preferential treatment.

Recommendations

Federal and Territorial Parks should consider a communications plan to publicize contract awards and associated benefits to Inuit.

DIO Right of First Refusal to Operate Business Opportunities and Ventures

8.4.9 A DIO shall have the right of first refusal to operate all business opportunities and ventures that are contracted out with respect to Parks in the Nunavut Settlement Area. Upon request, Government shall make available to a DIO all reports and other materials in its possession relevant to the analysis of the economic feasibility of business opportunities and ventures in Parks in the Nunavut Settlement Area.

Is not being met on an ongoing basis. Federal and Territorial Governments have not established processes for providing the right of first refusal to the DIO. The GNWT developed proposed procedures subsequent to the review period, however, these procedures propose the right to “bid” on projects rather than the right to “operate” projects. This is inconsistent with 8.4.9.

No requests from DIOs for information relevant to the analysis of the economic feasibility of business opportunities and ventures in Parks were identified.

Observations

No business opportunities were reported in interviews, and it is believed that none have been identified or contracted out.

Recommendations

The Federal and Territorial Parks authorities should take action to establish a process for providing the right of first refusal to operate all business opportunities and ventures that are contracted out.

Management

8.4.11 A joint Inuit/Government parks planning and management committee ("the Committee") shall be established through the IIBA when requested either by Government or a DIO. The Committee shall consist of equal numbers of members appointed by the appropriate DIO and the appropriate territorial or federal Minister responsible for Parks. It is the intention of this Section that there shall be separate committees for Territorial and National Parks.

No occasion to implement. No IIBAs were signed during the review period. Article 5 of the IIBA for Auyuittuq, Ellesmere Island and Sirmilik National Parks (signed after the review period), now implements this obligation on an ongoing basis. Territorial Parks have their own Joint Parks Management Committees in the absence of IIBAs.

Management Plans

8.4.13 Management plans for Parks shall be developed within five years of the establishment of a Park or of the date of ratification of the Agreement, whichever is the later date, by the Canadian Parks Service and by the Territorial Government for Territorial Parks. Such plans shall be based on the recommendations of the Committee, where such a Committee is established, taking into account the recommendations of other interested persons or bodies. Upon review by the Committee, Park management plans shall be forwarded to the Minister for consideration and approval. Park management plans shall be reviewed and may be revised as provided in the plan.

No occasion to implement by the Federal Government. No National Parks existed in the NSA during the review period. Three National Parks are expected to come into existence on August 12, 2000 and management plans must be developed within five years of that date. The IIBA contemplates management plans.

Is being met on an ongoing basis by the Territorial Government. Territorial Parks reports that management plans have been established for each Park. Although the Committee was not established under 8.4.11, obligation 8.4.13 does not require it to be.

Observations

None.

Recommendations

None.

Topic Area: National and Territorial Parks

Publication of Parks Information

8.4.16 Government shall make available Inuktitut translations of its publications that are aimed at informing the Canadian public about Parks in the Nunavut Settlement Area, and any information disseminated or communicated to the public within any Parks in the Nunavut Settlement Area shall be equally prominent in one or more of Canada's official languages and in Inuktitut.

No occasion to implement by the Federal Government. Nevertheless, Federal Parks met the intent of this obligation by publishing a number of brochures and books in one or more of Canada's official languages and in Inuktitut.

Is being met on an ongoing basis by the Territorial Government. Various signage, brochures and information regarding parks have been translated into Inuktitut.

Dedication

8.4.18 Appropriate recognition shall be made of Inuit history and presence as part of the process of the establishment and operation of a Park.

Is being met on an ongoing basis.

Observations

None.

Recommendations

None.

Topic Area: Conservation Areas

Legislation Study

9.3.1 Government, in consultation with Inuit, shall conduct a study to determine the need for new legislation or amendments to existing legislation to designate and manage Conservation Areas in terrestrial and marine environment in the Nunavut Settlement Area. This study shall be completed and published by Government within two years of the date of ratification of the Agreement.

Has not been met. This obligation was not met within the two years stipulated in the obligation. No extension or amendment to the deadline for completion of the study was sought during the review period. Subsequent to the review period the study was completed in December, 1998. NTI is satisfied with the consultation and recommendations but expressed concern that they be followed through.

Observations

The Federal Government, with good intentions, prepared a discussion paper but submitted it to an institution of public government instead of NTI in April, 1994. This error was discovered in May, 1995 as a result of NTI's questions.

Two years later, in September, 1997, NTI responded that NTI would not accept the discussion paper and expressed concern about the delay.

Because NTI took over two years to respond to the Federal Government, NTI shares some of the responsibility for the delay in implementation.

Recommendations

None.

Topic Area: Conservation and Management

Co-Management of Conservation Areas

9.3.2 The establishment, disestablishment or changing of the boundaries of Conservation Areas related to management and protection of wildlife and wildlife habitat shall be subject to the approval of the NWMB pursuant to Sub-section 5.2.34(a). Conservation Areas shall be co-managed by Government and the DIO as provided in Section 9.3.7.

Is being met on an ongoing basis. A sample review of records indicated that the NWMB was approving boundaries for Igalirtuug National Wildlife Area and Nirjutiavvik National Wildlife Area as early as June 1, 1994. No parties have indicated any concerns regarding boundaries. For co-management discussion see 9.3.7 below.

9.3.7 Sections 8.4.11 and 8.4.12 shall apply in like manner to Conservation Areas except that where an IIBA is not concluded in the process of establishing a Conservation Area, the Committee referred to in those sections shall be established when requested by Government or a DIO.

Is not being met on an ongoing basis. Section 8.4.11 requires that a management committee be established through an IIBA. A number of Conservation Areas have been established. These include: the Fall Caribou Crossing National Historic Site on the Kazan River and Arviaq, Qikiqtaaluk, Igalirtuug and Nirjutiavvik National Wildlife Areas.

An IIBA has not been negotiated for any of them. CWS has followed a practice, which precedes the ratification of the NLCA, of appointing ad hoc management committees and does not follow the IIBA process provided for in 8.4.11 for structuring a joint management committee.

Inuit Impact Benefit Agreements and Other Economic Benefits

9.4.1 Sections 8.4.2 to 8.4.10 shall apply in like manner to Conservation Areas and to government agencies having responsibilities with respect to Conservation Areas. Notwithstanding Sections 8.4.2 to 8.4.4, in cases of emergency, such as the establishment of a critical wildlife area, the IIBA may be concluded forthwith upon, rather than prior to, the establishment of the protected area.

Is not being met on an ongoing basis. Obligation 8.4.2 requires that no Conservation Area be established in the NSA until obligations 8.4.4 (negotiate IIBA) and 8.4.5 (conciliation) are met. These obligations were not met; consequently obligation 8.4.2 is also in breach. 8.4.4 requires an IIBA prior to the establishment of a Conservation Area. 8.4.5 requires the use of conciliation when faced with unreasonable delays. 8.4.6. requires that IIBAs be in place for Conservation Areas existing prior to the ratification of the NLCA, of which there were 12, within five years of the ratification. No IIBAs for Conservation Areas have been signed to date. 8.4.8, 8.4.9 provide for Inuit participation in contracts and economic opportunities from Conservation Areas. No participation has been reported to date. There were no emergencies of the type foreseen in 9.4.1.

Obligation to Conclude

9.4.2 Notwithstanding Section 8.4.2 to 8.4.4. the obligation to conclude an IIBA with respect to Conservation Areas shall:

- a) not apply to a Conservation Area so long as the Conservation Area does not raise any matter that would have a detrimental impact on Inuit or that could reasonably confer a benefit on Inuit;

- b) with respect to Conservation Areas that have been established prior to and continue to exist at the date of ratification of the Agreement, be an obligation to conclude an IIBA prior to the fifth anniversary of the date of ratification of the Agreement; and
- c) apply in any situation where it is intended that a Conservation Area established for one purpose be re-established for a different purpose where such re-establishment would have a detrimental impact on Inuit or could reasonably confer a benefit on Inuit.

Is not being met on an ongoing basis. In the case of (a), CWS acknowledges that there are at least seven proposed or existing Conservation Areas that require IIBAs, and that each has potentially some matter which could have a detrimental impact or positive benefit to Inuit. NTI takes the view that the vast majority of Conservation Areas require IIBAs due to the potential detrimental impact or positive benefit to Inuit. NTI acknowledges there may be one or more Conservation Areas that are so remote and small that they do not fall into this category. In the case of 9.4.2 (b), no IIBAs have been signed for any of the 12 Conservation Areas that existed prior to the ratification of the NLCA. In the case of (c), no such situations were identified.

Observations

The Parties' actions did not reflect a priority towards implementing IIBAs for Conservation Areas. Compared to Parks, the economic benefit from Conservation Areas is significantly less. The time and cost of negotiating individual IIBAs is seen as high. If this is the case, efficiencies could be gained through an umbrella IIBA.

Recommendations

The CWS should restructure its joint management committees to conform to the NLCA.

The Federal Government and NTI should commit themselves to a planned approach for negotiation of IIBAs for all Conservation Areas that meet the "detriment or benefit" test.

The Federal Government and NTI should consider merging all or most of the Conservation Area IIBAs into an umbrella IIBA.

Topic Area: Conservation Areas

Publication of Information in Inuktitut and Recognition of Inuit History and Presence in Conservation Areas

9.4.3 Sections 8.4.16 and 8.4.18 shall apply in the like manner to Conservation Areas and to government agencies having responsibilities with respect to Conservation Areas.

Is being partially met on an ongoing basis. Initially, brochures and all minutes of the management committees are translated into Inuktitut. To date, Inuit history and presence have been recognized through names of the Conservation Areas. However, there has not been much activity recently.

Observations

None.

Recommendations

Once the associated IIBAs are in place, the Federal and Territorial Governments should continue implementation.

Topic Area: Thelon Game Sanctuary

Thelon Game Sanctuary - General

9.5.2 The Territorial Government shall, within five years of the date of ratification of the Agreement, coordinate the preparation of a management plan to jointly conserve and manage the Thelon Game Sanctuary.

This shall entail applying the process set out in Sections 8.4.11 and 8.4.12 for that part of the Sanctuary in the Nunavut Settlement Area, and coordinating that process with a process applicable in that part of the Sanctuary which is outside the Nunavut Settlement Area. The Thelon Game Sanctuary Management Plan shall be based on recommendations of the DIO and affected communities. This plan shall be subject to the approval of the federal and territorial governments. No changes will be made to the status of the Thelon Game Sanctuary or its boundary, until the Sanctuary management plan is approved by the federal and territorial governments. Following approval of the Sanctuary management plan, proposals to change the boundary of the Thelon Game Sanctuary, to disestablish the Sanctuary, or to alter its status shall be subject to joint public review by the NWMB and the agency having jurisdiction over management and protection of wildlife and wildlife habitat in that part of the Sanctuary which is outside the Nunavut Settlement Area.

Section 9.3.2 applies to any decision of the NWMB respecting that part of the Sanctuary that is within the Nunavut Settlement Area.

Has not been met. The Territorial Government did not finish coordinating the required management plan within five years. Post review, some progress is reported.

Observations

The GNWT was doing a good job of coordinating the process to the summer of 1997 when staff cut-backs resulted in a lack of continuity. To that time and reportedly post review, NTI is satisfied with the consultation process. The management plan is not finalized. There have been no changes to the proposed boundaries. The Baker Lake members of the planning committee have expressed a desire to negotiate an IIBA once a management plan is in place.

Recommendations

The Government of Nunavut, NTI, and the DIO should build on work completed to date to conclude the management plan and then commence IIBA negotiations.

Topic Area: Institutions of Public Government

Timetable for Establishment

- 10.1.1 The Government of Canada undertakes that the following institutions will be established as institutions of public government in accordance with the Agreement, according to the following timetable:
- (a) the Surface Rights Tribunal (Tribunal), six months after the date of ratification of the Agreement, unless established at an earlier date; and
 - (b) the following institutions, namely
 - (i) the Nunavut Impact Review Board (NIRB),
 - (ii) the Nunavut Planning Commission (NPC), and
 - (iii) the Nunavut Water Board (NWB),on the second anniversary of the date of ratification of the Agreement, unless established at an earlier date.

Has not been met. IPGs established under 10.10.1.

- 10.1.2 Without in any way limiting the obligation of the Government of Canada, the institutions referred to in Section 10.1.1 shall be established by legislation of the Legislative Assembly to the extent that it has jurisdiction.

No occasion to implement.

- 10.2.1 All substantive powers, functions, objectives and duties of the institutions referred to in Section 10.1.1 shall be set out in statute. Matters that do not touch upon the substantive powers, functions, objectives, duties, membership ratios and manner of appointment of members of the institutions, may be implemented through regulation, but the discretion to implement through regulation shall in no way be construed so as to broaden the powers set out in Section 10.6.1 and Section 10.7.1.

Has not been met. No legislation to establish the IPGs has been enacted.

- 10.10.1 Where the legislation to establish any of the institutions referred to in Section 10.1.1 is not in effect by the first anniversary of the date specified for their establishment,
- (a) in respect of the Tribunal, the Minister shall appoint persons as members of the Tribunal; and
 - (b) in respect of NIRB, the NPC or the NWB, the provisions of the Agreement respecting the appointment of the members of that institution shall be considered to be in effect on that anniversary date, and upon their appointment, those members shall be considered to have, for all purposes of law, all the powers and duties described in the Agreement.

Has been partially met. SRT board appointments were announced in April, 1996. This was past the deadline of 18 months after ratification. NIRB, the NPC and the NWB board members were appointed July 9, 1996.

- 10.10.2 Without in any way limiting Section 10.2.1, or any other relevant provisions of the Agreement, where an institution is established under Section 10.10.1, Government may provide, by regulation or order, for any matter in relation to that institution, not inconsistent with those powers and duties, to facilitate the operation of that institution.

- 10.10.3 Government may, at any time, re-establish in the manner provided for in, and consistent with, the other Parts of this Article, any institution established under Section 10.10.1.

No occasion to implement.

Consolidate, Reallocate, or Vary Certain Administrative Matters

- 10.6.2 The consolidation and reallocation powers outlined in Section 10.6.1 shall come into effect three years after the establishment of the relevant institutions referred to in Section 10.1.1. In the period prior to these powers coming into effect, such consolidation or reallocation shall require the prior written approval of the DIO.
- 10.7.3 The powers to vary referred to in Sections 10.7.1 and 10.7.2 shall come into effect one year after the establishment of the relevant institutions referred to in Section 10.1.1. In the period prior to these powers coming into effect, such variance shall require the prior written approval of the DIO.
- 10.8.1 Government shall consult closely with the DIO and the relevant institution referred to in Section 10.1.1 prior to taking any initiative under Sections 10.6.1, 10.7.1 or 10.7.2. The appropriate DIO or institution shall, upon request, be given an audience with the appropriate Minister as part of such consultation.

No occasion to implement.

Observations

Observations are offered in more detail in Section 5.4.4, Legislation Establishing the IPGs and Section 5.4.3, Consultation.

Recommendations

The recommendations in Section 5.4.4, Legislation Establishing the IPGs should be considered.

Topic Area: Nunavut Planning Commission (NPC)

Establishment

- 11.4.1 A Nunavut Planning Commission (NPC) shall be established with the major responsibilities to:
- (a) establish broad planning policies, objectives and goals for the Nunavut Settlement Area in conjunction with Government;
 - (b) develop, consistent with other provisions of this Article, land use plans that guide and direct resource use and development in the Nunavut Settlement Area; and
 - (c) generally, fulfil the objectives of the Agreement in the manner described, and in accordance with the general principles mentioned in Section 11.2.1, as well as such additional functions as may be agreed upon from time to time by Government and the DIO.

Has been partially met. The NPC was established under 10.10.1 (b) on July 9, 1996. No legislation to establish the NPC has been enacted. The General By-law incorporates the principles and objectives of 11.2.1 and 11.2.2 and governs the development of land use plans.

- 11.4.5 The size and makeup of the membership of the NPC may vary, but the Government of Canada and Territorial Government shall each recommend at least one member and the DIO shall nominate a number of members equal to the total number recommended by Government. The NPC members shall be appointed by the Minister of Indian Affairs and Northern Development from the above-noted recommendations and nominations.

Is being met on an ongoing basis. Appointments were made effective July 9, 1996. There are no public servants on the board, and at least half the membership of the board is resident in the NSA. See also comments in Section 5.4.2, Board Member Appointments – Implementing Bodies.

- 11.4.10 From nominations provided by the NPC, the Minister of Indian Affairs and Northern Development, in consultation with the Territorial Government Minister responsible for Renewable Resources, shall appoint a further member to act as a chairperson. A member of the NPC may be nominated as chairperson and another member appointed under Section 11.4.5.

Has been met.

Budgets

- 11.4.3 The costs of the NPC shall be the responsibility of Government. The NPC shall prepare an annual budget, subject to review and approval by Government.

Is being partially met on an ongoing basis. The NPC prepares annual budgets which are subject to review and approval by DIAND. DIAND uses a contribution agreement to flow funds to the NPC. The NPC and NTI have objected to the form and content of the contribution agreement since 1994. This issue is discussed in more detail in Section 5.4.6, Funding Arrangements for the IPGs.

Role and Responsibility

- 11.4.4 Consistent with the Agreement, the NPC shall:
- (a) identify planning regions;
 - (b) identify specific planning objectives, goals and variables that apply to planning regions and are consistent with the broader objectives and goals;
 - (c) contribute to the development and review of Arctic marine policy;

- (d) disseminate information and data;
- (e) solicit opinions from municipalities, residents and others about planning objectives, goals and options of the region;
- (f) prepare and circulate draft land use plans;
- (g) promote public awareness and discussion and conduct public hearings and debate throughout the planning process;
- (h) recommend plans to the Ministers;
- (i) consider modifications requested by the Ministers in the event that a draft plan is rejected;
- (j) consider amendments to a land use plan in accordance with Part 6;
- (k) determine whether a project proposal is in conformity with a land use plan;
- (l) monitor projects to ensure that they are in conformity with land use plans; and
- (m) report annually to the Ministers and the DIO on the implementation of land use plans.

Waste Clean-up

- 11.9.1 The NPC shall identify and prioritize the requirement to clean-up waste sites in the Nunavut Settlement Area, including hazardous waste sites, inactive mining sites, abandoned DEW Line sites, and non-hazardous sites near communities. The NPC shall consider waste sites in the Kitikmeot region on a priority basis. To the extent possible, this initiative shall be co-ordinated with the development of land use plans.

Is being met on an ongoing basis. The NPC has identified six planning regions. A five-year plan summary is in place giving priority for new plans to the West Kitikmeot. The direction contained in these obligations, and other relevant obligations, is reflected in the development and content of draft plans prepared to date. Revised draft land use plans for the Keewatin and North Baffin were submitted to Ministers for approval in April, 1997 and July, 1997 respectively. The revised draft West Kitikmeot Regional Land Use Plan, including a clean-up plan, is now being finalized and will shortly be submitted for Ministerial approval. NTI has raised the issue of joint acceptance, or referrals back to the NPC, of revised draft land use plans, by responsible Ministers (11.5.6). The approval process, as reported did not conform to 11.5.6. The ongoing implementation of this obligation for the West Kitikmeot is untested.

Processing of General Monitoring

- 12.7.6 There is a requirement for general monitoring to collect and analyze information on the long term state and health of the ecosystemic and socio-economic environment in the Nunavut Settlement Area. Government, in co-operation with the NPC, shall be responsible for developing a general monitoring plan and for directing and coordinating general monitoring and data collection. The NPC shall:
- (a) in accordance with the plan, collate information and data provided by industry, government departments and agencies, amongst others;
 - (b) in accordance with the plan, report periodically on the ecosystemic and socio-economic environment of the Nunavut Settlement Area; and
 - (c) use the information collected under Sub-sections (a) and (b) to fulfil its existing responsibilities under Article 11.

Is being partially met on an ongoing basis. The approach taken by the NPC and DIAND is to use the development of land use plans as the method of generally implementing this obligation. There is no formal process to share information between the NPC and Government. The involvement of government representatives at technical workshops is seen to achieve the intended result. It is too early in the process to assess the longer effect of this approach. Among other information dissemination techniques, the NPC posts general monitoring information on its website to ensure it is widely accessible.

The Implementation Contract assigns DIAND the responsibility of identifying government agencies involved in monitoring and data collection. The GNWT did not identify itself as having implementation responsibilities under this obligation in its reports to the NIP.

There is no systematic monitoring of socio-economic information.

Observations

The General By-law prescribes the application of conflict of interest legislation to board members. The Executive Director confirms that oaths, in the form prescribed by Schedule 5.4, which have been administered prior to members assuming office and are held on file. The NPC conducts business in Canada's official languages and Inuktitut.

The location of the NPC's head office has been an issue. During the review period, the Executive Director's office and other corporate functions were housed in Ottawa. Since the conclusion of the review period, the NPC has moved its corporate finance office to Rankin Inlet and the Executive Director's office to Cambridge Bay. A small complement of staff remain in Ottawa.

Work is progressing on the development of land use plans. No plans have received Ministerial approval to date. As a result, the NPC's implementation of resource management obligations is untested.

The issues of legislation and funding are discussed in more detail in Sections 5.4.4 and 5.4.6.

There is little systematic monitoring of socio-economic data. Such information is required for an effective overall assessment of the impact of the NLCA. Section 4.0, Impact Assessment, provides a more extensive discussion on this matter.

Recommendations

The recommendations in Section 5.4.4, Legislation Establishing the IPGs should be considered.

The recommendations in Section 5.4.6, Funding Arrangements for the IPGs should be considered.

The NPC should work with Government to establish procedures under 11.5.6, Ministerial approval.

DIAND, the GN, and the NPC should develop action plans for completing all aspects of the General Monitoring Plan, including the location of staff assigned responsibilities for meeting this obligation.

The Panel should monitor the NPC's progress in moving all head office functions to the NSA and take action to ensure implementation of 11.4.2, Head Office.

Topic Area: Nunavut Impact Review Board (NIRB)

Establishment of the Nunavut Impact Review Board (NIRB)

12.2.1 A Nunavut Impact Review Board (NIRB) shall be established as an institution of public government. Responsibility for the operation of NIRB shall vest in the members of NIRB.

Has been partially met. The NIRB was established under 10.10.1 (b) on July 9, 1996. No legislation to establish NIRB has been enacted.

12.2.6 NIRB shall be a board composed of nine members, one of whom shall be the chairperson. The members shall be appointed as follows:

- (a) four members shall be appointed by the federal Minister responsible for Northern Affairs, upon nomination by the DIO;
- (b) a total of two members shall be appointed by one or more Ministers of the Government of Canada;
- (c) a total of two members shall be appointed by one or more Ministers of the Territorial Government; at least one of whom shall be appointed by the Minister responsible for Renewable Resources;
- (d) from nominations agreed to and provided by persons appointed under (a) to (c), the chairperson shall be appointed by the federal Minister responsible for Northern Affairs in consultation with the Territorial Government;
- (e) in the nomination and appointment of a chairperson, preference shall be given to persons resident in the Nunavut Settlement Area where candidates are equally qualified.

12.2.10 Where a vacancy occurs, a replacement member may be nominated and appointed pursuant to the provisions of Section 12.2.6 for the remainder of the term of the former member.

Has been met. Appointments were made effective July 9, 1996. Reappointment is outside the review period and untested. See also comments Section 5.4.2, Board Member Appointments – Implementing Bodies.

Functions

12.2.2 The primary functions of NIRB shall be:

- (a) to screen project proposals in order to determine whether or not a review is required;
- (b) to gauge and define the extent of the regional impacts of a project, such definition to be taken into account by the Minister in making his or her determination as to the regional interest;
- (c) to review the ecosystemic and socio-economic impacts of project proposals;
- (d) to determine, on the basis of its review, whether project proposals should proceed, and if so, under what terms and conditions, and then report its determination to the Minister; in addition, NIRB's determination with respect to socio-economic impacts unrelated to ecosystemic impacts shall be treated as recommendations to the Minister; and
- (e) to monitor projects in accordance with the provisions of Part 7.

12.2.3 The mandate of NIRB shall not include the establishment of requirements for socio-economic benefits.

12.2.4 NIRB shall carry out such other functions as are identified or contemplated in the Agreement, and such additional functions as may be agreed to from time to time by a DIO and the Government of Canada or Territorial Government or as may be set out in legislation.

12.2.5 In carrying out its functions, the primary objectives of NIRB shall be at all times to protect and promote the existing and future well-being of the residents and communities of the Nunavut Settlement Area, and to protect the ecosystemic integrity of the Nunavut Settlement Area. NIRB shall take into account the well-being of residents of Canada outside the Nunavut Settlement Area.

Is being met on an ongoing basis. In the absence of legislation, the NIRB has established Operational Procedures and Draft Rules of Practice. The obligations under 12.2.2 are addressed and these authorities do not include reference to the establishment of socio-economic benefits. NTI has retained DIO status for 12.2.4. The NIRB authorities reflect the requirement to take into account the future well-being of NSA residents and that of residents of Canada outside the NSA.

Budgets

12.2.31 The costs of NIRB shall be the responsibility of Government. NIRB shall prepare an annual budget subject to review and approval by Government.

5.14 (Implementation Contract) Notwithstanding Section 5.1, the Government of Canada shall, in accordance with budgets approved in the manner described in Section 5.15, provide funding for the costs of hearings that the NWB and the SRT and reviews that the NIRB are required by law to conduct, including the costs of:

- a) the travel, accommodation, expenses and honoraria of members travelling and attending hearings and reviews;
- b) translation and interpretation services;
- c) facilities and equipment;
- d) preparation and distribution of transcripts;
- e) legal counsel; and
- f) staff expenses, where travel is required.

5.15 (Implementation Contract) For the purpose of obtaining funding under Section 5.14, NIRB, the NWB and the SRT shall be required to submit budgets for hearings and reviews to the Implementation Panel for review. The budgets shall be forwarded to the appropriate Minister or Minister's delegate by the Implementation Panel with any recommendations of the Panel and are subject to approval of the Minister or Minister's delegate.

Is being partially met on an ongoing basis. The NIRB prepares annual budgets which are subject to review and approval by DIAND. DIAND uses a contribution agreement to flow funds to the NIRB. The NIRB and NTI have objected to the form and content of the contribution agreement since 1994. Further, the NIRB has expressed concerns about the planning assumptions underlying the allocation of funding during the first 10 years of implementation. This issue is discussed in more detail in Section 5.4.6, Funding Arrangements for the IPGs and Section 5.4.7, Implementation Funding Levels. Implementation of 5.14 and 5.15 is untested.

By-laws and Procedures

12.2.23 NIRB, after due consultation, may make and shall publish its by-laws and rules of procedure respecting:

- (a) the calling of meetings of NIRB;

- (b) the conduct of business at meetings of NIRB including the requirements with respect to physical presence and the use of tele-conferencing or like facilities;
- (c) the establishment of special and standing committees of NIRB, and the fixing of quorums for meetings thereof;
- (d) the carrying on of the work of NIRB, the management of its internal affairs, and the duties of its officers and employees;
- (e) the procedures for making representations and complaints to NIRB;
- (f) the procedures and guidelines for collecting information and opinions;
- (g) the procedures to be used and the admission of evidence at public hearings before NIRB or NIRB panels;
- (h) the establishment of standard guidelines for preparation of impact statements; and
- (i) generally, the manner of conducting any business of or before NIRB.

Is being partially met on an ongoing basis. The NIRB has published Draft Rules of Practice and Operational Procedures. In the absence of legislation, the rules of practice are considered "draft". No administrative procedures have been developed for board operations, and the board follows the obligations set out in the NLCA. The Draft Rules of Practice address obligations set out in clauses 12.2.24, 12.2.25 12.2.26 and 12.2.27.

Relationship to the Land Use Planning Provisions

12.3.1 Where the NPC determines, pursuant to Section 11.5.10, that a project proposal is in conformity with the land use plans, or a variance has been approved, the NPC shall, subject to Sections 12.3.2, 12.3.3 and 12.4.3, forward the project proposal with its determination and recommendations to NIRB for screening.

No occasion to implement. There are no approved land use plans. In the interim, the resource management IPGs have held workshops and discussions to prepare for implementation of this and similar obligations. The NWB and NIRB are sending project proposals to the NPC as a matter of course to contribute to baseline information being gathered by the NPC. The planning tools on the NPC website are available to proponents to test for potential project effects.

Screening of Project Proposals

12.4.4 Upon receipt of a project proposal, NIRB shall screen the proposal and indicate to the Minister in writing that:

- (a) the proposal may be processed without a review under Part 5 or 6; NIRB may recommend specific terms and conditions to be attached to any approval, reflecting the primary objectives set out in Section 12.2.5;
- (b) the proposal requires review under Part 5 or 6; NIRB shall identify particular issues or concerns which should be considered in such a review;
- (c) the proposal is insufficiently developed to permit proper screening, and should be returned to the proponent for clarification; or
- (d) the potential adverse impacts of the proposal are so unacceptable that it should be modified or abandoned.

Is being partially met on an ongoing basis. The NIRB reported that initial contact with government enforcement agencies was difficult in the absence of a contact list or other mechanism to identify government officials responsible for implementing this obligation. DIAND has established procedures that enable the NIRB to choose from a standard menu of terms and conditions that DIAND itself may attach to licences or permits. If the NIRB recommends attachment of a term or condition outside of this standard menu, DIAND enters into discussions with the NIRB to examine alternate choices from the menu. EC does not have procedures in place for implementing this obligation. It advises its legislation requires an assessment before

issuing a licence and that applications are sent to NIRB. DFO advises they do not have any regulatory authority as contemplated by this obligation.

It appears that some agencies have taken the words of the obligation literally and do not incorporate the accepted NIRB terms and conditions but simply attach them to the approval document without guidance to the licence or permit holders as to their meaning and application. NTI has reported that certain project proposals screened by the NIRB, particularly in marine areas, are not subject to permitting or licensing by an authorizing government agency. So essentially, if the NIRB recommends specific terms and conditions, there is no mechanism for implementation or enforcement.

NTI has raised a general issue about departmental environmental screenings in the NSA under the *Canadian Environmental Assessment Act* following the establishment of the NIRB in July, 1996. This issue remains unresolved to date.

Membership on panels (Review by a Federal Environmental Assessment Review Panel)

- 12.6.1 Where the Minister under Sub-section 12.4.7(a) decides to refer a project proposal to the Minister of the Environment for public review by a federal environmental assessment panel, the panel shall conduct its review in accordance with the provisions of this Part and with any other procedures, principles and general practices that provide at least the same opportunity for an open and comprehensive public review as provided by the Environmental Assessment and Review Process Guidelines Order (S.O.R./84-467, 22 June, 1984).
- 12.6.2 For a project proposal within the Nunavut Settlement Area, the Minister of the Environment shall be free to appoint members to a panel in accordance with the Minister's general practice, except that at least one quarter of the panel members shall be appointed from a list of nominees given to the Minister of the Environment by the DIO, and at least one quarter from a list of nominees given to the Minister of the Environment by the appropriate Territorial Government Minister. Nothing shall prevent the DIO or the Territorial Government Minister from nominating candidates who are already members of NIRB.
- 12.6.3 When a project proposal would take place both inside the Nunavut Settlement Area and an adjacent area used by another aboriginal group or groups, at least one quarter of the panel members shall be appointed from nominees of the DIO and the other relevant aboriginal group or groups, in accordance with any agreement between the DIO and the other aboriginal group or groups.
- 12.6.4 Members of panels shall:
- (a) be unbiased and free of any potential conflict of interest relative to the project proposal under review; for greater certainty no panel member who is an Inuk shall be considered biased solely because the panel member is an Inuk; and
 - (b) have special knowledge and experience relevant to the anticipated technical, environmental or social effects of the project proposal under review.

No occasion to implement. The NIRB is in negotiations with the Canadian Environmental Assessment Agency (CEAA) to develop a memorandum of understanding about their respective roles and obligations under the NLCA.

Enforcement

- 12.10.1 No licence or approval that would be required in order to allow a proposed project to proceed shall be issued in respect of a project that is to be screened by NIRB until the screening has been completed and, if a review pursuant to Part 5 or 6 is to be conducted, until after that review has been completed and a NIRB project certificate has been issued by NIRB pursuant to these provisions.
- 12.10.2 Notwithstanding Section 12.10.1, where a project proposal has been referred for review pursuant to Part 5 or 6, approvals or licences for exploration or development activities related to that project may be issued if:
- (a) the activity falls within Schedule 12-1; or
 - (b) the activity can, in the judgement of NIRB, proceed without such a review.
- 12.10.3 Where permits, certificates, licences or other government approvals which implement or incorporate the terms and conditions of a NIRB project certificate have been issued, the responsible government department or agency shall continue to be responsible for the enforcement of the permit, certificate, licence or other government approval.
- 12.10.4 Responsible government departments and agencies shall apply effective techniques at their disposal for enforcement under Section 12.10.3 and in applying such techniques, they shall not be confined to prosecution or to the suspension of any permit, certificate, licence or other government approval.

Is being partially met on an ongoing basis. DIAND has established procedures to implement these obligations (within the context noted in 12.4.4 above). EC states that existing legislation requires an assessment prior to issuing a licence. By practice, EC has moved from dealing with the FEARO, the CEAA and now NIRB. There are no formal procedures in place. The NIRB and government enforcement agencies report improvement in their communications and establishment of good working relationships over the review period.

Agreements Regarding Transboundary Impacts

- 12.11.1 NIRB may upon request by Government or, with the consent of Government, upon request by a DIO, review a project proposal located outside of the Nunavut Settlement Area which may have significant adverse ecosystemic or socio-economic effects on the Nunavut Settlement Area.
- 12.11.2 Without limiting the jurisdiction of NIRB or EARP as set out in this Article, the Government of Canada and the Territorial Government, assisted by NIRB, shall use their best efforts to negotiate agreements with other jurisdictions to provide for collaboration in the review of project proposals which may have significant transboundary ecosystemic or socio-economic impacts.

No occasion to implement. The NIRB advises it has not received a request under 12.11.1. NTI has not made designations under 12.11.1. The Territorial Government advises that processes to implement this obligation, as needed, are in place. DIAND treats projects with potential transboundary implications on a case by case basis. NTI takes the position that the Government of Canada did not fulfill its implementation obligations with respect to the Diavik project. This was not an issue raised by Government.

Is being met on an ongoing basis. NIRB took a proactive approach with Government to confirm implementation of this obligation. Agreements have been negotiated with the GNWT and NWT Power Corporation. These agreements are time-limited and subject to review.

Observations

The NIRB head office is located in Cambridge Bay. Oaths of office are on file for board members as required. A review of the minutes indicated that all meetings were in Nunavut, quorums were met as prescribed and decisions were taken by majority vote. All board members, officers and employees are subject to conflict of interest guidelines as prescribed. The Draft Rules of Practice govern language of business consistent with stated obligations. The resource management IPGs have held discussions to prepare to implement such obligations as 12.3.1.

The major implementation concern is the level of funding available to NIRB. This is addressed in more detail in Sections 5.4.6, Funding Arrangements for the IPGs and 5.4.7, Implementation Funding Levels.

Government agencies with regulatory or licensing authorities have not established formal procedures to implement 12.4.4, Screening of Project Proposals and 12.10.1, Enforcement. In the absence of formal procedures implementation of these obligations is only partially being met.

The lack of resolution of issues related to the application of the *Canadian Environmental Assessment Act* in the NSA creates uncertainty.

Recommendations

The recommendations in Section 5.4.4, Legislation Establishing the IPGs should be considered.

The recommendations in Section 5.4.6, Funding Arrangements for the IPGs and Section 5.4.7, Implementation Funding Levels should be considered.

The NIRB, the NWB, and the NPC should continue discussions to plan for implementation of obligations such as 12.3.1, Relationship to the Land Use Planning Process.

Government permitting and licensing agencies should work with the NIRB to improve the implementation of obligations under 12.4.4, Screening of Project Proposals, in the context of 12.2.5, Primary Objectives.

The NIRB should build on the success achieved in negotiating memorandum of understanding in relation to Schedule 12-1 and enter into discussions with the Government of Nunavut and other government agencies, as required.

Establishment of Nunavut Water Board (NWB)

13.2.1 A Nunavut Water Board (NWB) shall be established as an institution of public government. It shall have responsibilities and powers over the regulation, use and management of water in the Nunavut Settlement Area, on a basis at least equivalent to the powers and responsibilities currently held by the Northwest Territories Water Board under the Northern Inland Waters Act RSC 1985, c. N-25, and any other responsibilities acquired under this Article.

Has been partially met. The NWB was established under 10.10.1 (b) on July 9, 1996. No legislation to establish the NWB has been enacted. Bill C-62, an Act to establish the NWB and SRT, received first reading in December, 1998.

13.3.1 The NWB shall be composed of nine members. The members shall be appointed as follows:

- (a) four members shall be appointed by the Minister of Indian Affairs and Northern Development upon nomination by a DIO;
- (b) two members shall be appointed by the Minister of Indian Affairs and Northern Development;
- (c) two members shall be appointed by the Minister of Indian Affairs and Northern Development upon nomination by designated Ministers of the Territorial Government, one of whom shall be the Minister responsible for Renewable Resources; and
- (d) a chairperson shall be appointed by the Minister of Indian Affairs and Northern Development following consultation with the other members.

13.3.5 Where a vacancy occurs, a replacement member may be nominated or appointed for the remainder of the term of the vacant member by the DIO nominating the member under paragraph 13.3.1(a) or by the Minister appointing the member under paragraphs 13.3.1(b) or (c). Upon receiving the nomination, the Minister shall appoint the replacement member pursuant to Section 13.3.1.

Is being met on an ongoing basis. Appointments were made effective July 9, 1996. Reappointment is outside the review period and untested. See also comments in Section 5.4.2, Board Member Appointments – Implementing Bodies.

Budgets

13.3.17 The costs of the NWB shall be the responsibility of Government. The NWB shall prepare an annual budget, subject to review and approval by Government.

5.14 (Implementation Contract) Notwithstanding Section 5.1, the Government of Canada shall, in accordance with budgets approved in the manner described in Section 5.15, provide funding for the costs of hearings that the NWB and the SRT and reviews that the NIRB are required by law to conduct, including the costs of:

- g) the travel, accommodation, expenses and honoraria of members travelling and attending hearings and reviews;
- h) translation and interpretation services;
- i) facilities and equipment;
- j) preparation and distribution of transcripts;
- k) legal counsel; and
- l) staff expenses, where travel is required.

- 5.15 (Implementation Contract) For the purpose of obtaining funding under Section 5.14, NIRB, the NWB and the SRT shall be required to submit budgets for hearings and reviews to the Implementation Panel for review. The budgets shall be forwarded to the appropriate Minister or Minister's delegate by the Implementation Panel with any recommendations of the Panel and are subject to approval of the Minister or Minister's delegate.

Is being partially met on an ongoing basis. The NWB prepares annual budgets which are subject to review and approval by DIAND. DIAND uses a contribution agreement to flow funds to the NWB. The NWB and NTI have objected to the form and content of the contribution agreement since 1994. Further, the NWB has expressed concerns about the planning assumptions underlying allocated funding during the first 10 years of implementation. These issues are discussed in more detail in Section 5.4.6, Funding Arrangements for the IPGs. Implementation of 5.14 and 5.15 (of the Implementation Contract, Funding for Hearings) **is being met on an ongoing basis.**

Interjurisdictional Water Use Management (NWB Overlap Agreements)

- 13.10.1 Where a drainage basin is shared between the Nunavut Settlement Area and another jurisdiction, the Government of Canada and the Territorial Government, assisted by the NWB, shall use their best efforts to negotiate agreements with other jurisdictions concerned with the use and management of such drainage basins.

Has not been met. The NWB and DIAND began discussions in 1997 to outline the requirements for an interjurisdictional agreement. A contracted study to assist in this regard did not result in action during the review period. It is understood that implementation of this obligation will be pursued during the next review period.

Observations

The Article and clauses of the NLCA related to the NWB are the least detailed of those for the IPGs. The *Northern Inland Waters Act* RSC 1985, c. N-25, is used to confirm NWB powers but does not provide operational guidance. The NWB has adopted By-laws and Interim Rules of Practice and Procedure for Public Hearings. These authorities reflect obligations in Article 13 of the NLCA. A file search to document implementation was not conducted. The NWB and the Environmental Protection Branch of Environment Canada entered into a memorandum of understanding regarding technical assistance to the NWB. In the absence of legislation, the NWB relies on the NLCA to govern implementation activities. The delay in passing establishment legislation has caused additional work and effort for the NWB and those doing business or associated with it. See also comments in Section 5.4.4, Legislation Establishing the IPGs.

Recommendations

The recommendations in Section 5.4.4, Legislation Establishing the IPGs should be considered.

The recommendations in Section 5.4.6, Funding Arrangements for the IPGs should be considered.

Topic Area: Water Management

Co-ordination of Resource Management Activities

- 13.6.1 The NPC, NIRB and the NWB shall co-operate and co-ordinate their efforts in the review, screening and processing of water applications to ensure they are dealt with in a timely fashion.

Is being partially met on an ongoing basis. The NWB and NIRB have signed an agreement related to joint hearings. The NWB is sending applications to the NPC and the two IPGs have worked together to develop central tools for the management of baseline information. There are no approved LUPs in place and therefore the NPC cannot confirm the compliance of applications with LUPs.

Observations

The chairs of the three IPGs meet on a regular basis and agenda items include coordination of activities. Fully implementing this obligation is hampered by the absence of legislation and the absence of approved LUPs.

Recommendations

The NWB, the NIRB, and the NPC should continue their joint efforts to cooperate and coordinate their efforts related to water applications.

Government should expedite the approval of the revised draft land use plans submitted for Ministerial approval.

Topic Area: Municipal Lands

Conveyance of Built-up Municipal Lands

14.3.1 As soon as practicable, and in any event no later than three years after the date of ratification of the Agreement, the Commissioner shall convey the fee simple estate to the Municipal Lands within the built-up area of the municipality to the Municipal Corporation. The built-up area shall include, but shall not be restricted to infrastructure requirements of the municipality including water reservoirs and facilities, community dump sites, sewage lagoons and treatment plants, borrow pits for granular, quarry and construction materials, and graveyards. Necessary remedial surveys of the built-up area shall be done expeditiously by the Territorial Government which shall be responsible for the cost thereof.

Has been partially met. Conveyance was approximately 75% complete at the end of the review period. A significant training effort in land administration for the staff and potential staff of municipalities was undertaken. Some municipal corporations have not passed land administration and land acquisition by-laws. The views on why by-laws have not been passed differ. NTI contends that the draft by-laws prepared by MACA are not acceptable to all municipalities and cites the cancellation of a land development program as another contributing factor. MACA does not link the program cancellation with delays in implementing this obligation. A survey program within the built-up area of municipalities was completed. NTI contends that the standard used for surveys ("block" surveys of tracts) was inadequate.

Conveyance of Remaining Municipal Lands

14.3.2 Subsequent to the conveyance of the fee simple estate of the built-up area of the municipality under Section 14.3.1, and upon the request of the Municipal Corporation, the fee simple estate to any or all legally surveyed portions of Municipal Lands shall be conveyed forthwith to the Municipal Corporation.

Has not been met. Implementation is based on the assumption that parcels are surveyed. Surveys of "remote sites" within municipal boundaries were not completed during the review period and these lands were not transferred. It is understood that the GN has begun plans for implementation of this obligation during the next review period.

Administration of Municipal Lands

14.4.1 As the date of the ratification of the Agreement, all Municipal Lands, the fee simple estate to which has not been conveyed to the Municipal Corporation, shall be administered and controlled by the Commissioner for the use and benefit of the municipality.

14.4.2 The Commissioner shall not create or dispose of any interest or estates in Municipal Lands without prior written permission of the Municipal Corporation, conditional or otherwise.

14.4.3 Notwithstanding Sections 14.4.1 and 14.4.2, following the date of ratification of the Agreement, and prior to the conveyance to the Municipal Corporation, the Commissioner may transfer administration and control of Municipal Lands to any Minister, agent, or servant of the Crown but subject to

- (a) the approval of the Municipal Corporation, conditional or otherwise; or
- (b) the payment of compensation to the Municipal Corporation, on the same basis as if the transfer were an expropriation, and upon such transfer the lands shall cease to be Municipal Lands.

Is being met on an ongoing basis. MACA instituted procedures to administer municipal lands as required by 14.4.1 and 14.4.2 and to transfer lands in accordance with 14.4.3.

Administration of the 100 foot strip along shoreline of seacoast, navigable rivers and navigable lakes

14.5.2 The Commissioner shall not:

- (a) permanently alienate all or any part of the 100 foot strip referred to in Paragraph 14.1.1(b)(ii), or
- (b) create any interest in all or any part of the 100 foot strip referred to in Paragraph 14.1.1(b)(ii) without prior written permission of the Municipal Corporation, conditional or otherwise.

14.5.3 Notwithstanding Sections 14.5.1 and 14.5.2, following the date of ratification of the Agreement, the Commissioner may transfer administration and control of any part of the 100 foot strip referred to in Paragraph 14.1.1(b)(ii) to any Minister, agent, or servant of the Crown but subject to

- (a) the approval of the Municipal Corporation, conditional or otherwise, or
- (b) the payment of compensation to the Municipal Corporation, on the same basis as if the transfer were an expropriation, and upon such transfer the lands shall cease to be administered and controlled for the use and benefit of the municipality.

Is being met on an ongoing basis. MACA instituted procedures to administer the 100 foot strip as required by 14.5.2 and 14.5.3.

Municipal Boundaries

14.6.1 Nothing in the Article shall be construed so as to prevent the variance of a municipal boundary or the creation of a new municipality after the date of ratification of the Agreement. Such variance of a municipal boundary or creation of a new municipality shall not

- (a) affect, in itself, the title to lands,
- (b) include Inuit Owned Lands without the written permission, conditional or otherwise, of a DIO; or
- (c) require amending the Agreement.

Has sometimes been met in the past, but is not currently being met. MACA instituted a process for amending municipal boundaries as required by 14.6.1. Certain boundaries were varied in 1995. An application for variance made during the review period was not addressed. This application, and another received after the review period, has been referred to the GN for implementation.

Observations

Implementation of these obligations was more complex than originally thought. A significant training effort was undertaken during the review period. NTI has raised outstanding issues related to the implementation of obligations under 14.1.1, Inventory of Government and Crown Lands in Municipalities, and 14.3.1, Conveyance of Built-up Municipal Lands. MACA has not noted this as an outstanding item.

Recommendations

The Government of Nunavut should take a proactive approach in working with municipalities to fully implement outstanding Territorial Government obligations related to the conveyance of municipal lands and to municipal boundaries.

Topic Area: Municipal Lands

Right to Acquire Government Lands

14.7.1 Where, after the date of ratification of the Agreement, Government determines that land within a municipal boundary held at the date of ratification of the Agreement, is no longer needed for government purposes, and such land has been declared to be surplus, Government shall convey the fee simple estate to the Municipal Corporation in exchange for nominal consideration.

Is being met on an ongoing basis. MACA has processes in place to transfer surplus lands. DIAND is working with Public Works Canada to establish a process under the *Federal Real Property Act*. In the interim, identification of surplus lands is ongoing in anticipation of the transfer process being established.

Limits on Alienation of Municipal Lands – Referendum

14.8.1 Between the first and second anniversary of the date of the ratification of the Agreement, the Territorial Government shall conduct a referendum within each municipality to determine whether a majority of the municipal voters are in favour of restricting alienation of Municipal Lands.

Has been met. The referendum was conducted April 10, 1995 with a “lease only” result.

Limits on Alienation of Municipal Land of a Municipality

14.8.5 Where a municipal plan is not in effect with respect to all or part of the Municipal Lands of a municipality, the Municipal Corporation shall not create any legal or equitable interest or estate in the land or otherwise allow development to proceed on the lands, without the prior written permission of the Commissioner.

Is being met on an ongoing basis. MACA has instituted procedures to implement this obligation.

Abandoned Municipalities

14.10.1 In the event that a Municipal Corporation no longer exists, its Municipal Lands are abandoned and its Municipal lands are not required for government purposes the DIO shall have right of first refusal:

- (a) to purchase the lands; or
- (b) at the election of the DIO, to exchange the lands for Inuit Owned Lands of comparable value; when Government and the DIO cannot agree on the lands to be exchanged, the matter shall be resolved pursuant to Article 38.

No occasion to implement. NTI has designated the QIA and the KivIA as DIOs. RIAs are working cooperatively on the development of common land administration procedures, including procedures to implement this obligation. Existing territorial legislation provides for the abandonment of municipalities. There are no additional procedures in place to implement this obligation.

Observations

Generally, MACA has put procedures in place to implement obligations. The RIAs are working cooperatively together, and with NTI, to develop detailed procedures related to specific obligations.

Recommendations

None.

Topic Area: Marine Areas

Coordinated Management of Migratory Marine Species

- 15.3.1 Government will maintain a structure or structures to promote coordinated management of migratory marine species in Zones I and II and adjacent areas.
- 15.3.2 The NWMB shall appoint appropriate representation from the Nunavut Settlement Area to the structure or structures referred to in Section 15.3.1.

Has not been met. Government has not established a structure. Government has advised the NWMB about existing management structures. NWMB advisors and staff have attended at meetings.

Wildlife Management in Zones I and II

- 15.3.4 Government shall seek the advice of the NWMB with respect to any wildlife management decisions in Zones I and II which would affect the substance and value of Inuit harvesting rights and opportunities within the marine areas of the Nunavut Settlement Area. The NWMB shall provide relevant information to Government that would assist in wildlife management beyond the marine areas of the Nunavut Settlement Area.

Is being partially met on an ongoing basis. There are no formal communication processes in place. During the review period, the NWMB initially took a proactive approach in offering advice. Government is now seeking NWMB advice on a regular, but informal basis.

Consultation with the NWMB on Research Proposals and Applications

- 15.3.6 The NWMB may identify wildlife research requirements and deficiencies, review research proposals and applications, and where appropriate recommend acceptance or rejection of such proposals or applications within Zone I and II and, in making any decisions which affects Zones I and II, Government shall consider such recommendations.

Is being partially met on an ongoing basis. As noted in 5.2.37, Research, the NWMB establishes research requirements and deficiencies. Initially during the review period, the NWMB did not feel its recommendations were sought. This has improved over the review period, and there are examples of cooperative research projects. In the view of the NWMB, further improvements need to be made. Another problem in implementing this obligation has been the differing planning schedules of Government and the NWMB. Government planning for the next fiscal year's research program happens in September, October, and November. The NWMB begins planning in approximately January and allocates funding for projects in approximately February. There have been problems coordinating the two planning cycles.

Allocation of Commercial Fishing Licences Within Zones I and II

- 15.3.7 Government recognizes the importance of the principles of adjacency and economic dependence of communities in the Nunavut Settlement Area on marine resources, and shall give special consideration to these factors when allocating commercial fishing licences within Zones I and II. Adjacency means adjacent to or within a reasonable geographic distance of the zone in question. The principles will be applied in such a way as to promote a fair distribution of licences between the residents of the Nunavut Settlement Area and the other residents of Canada and in a manner consistent with Canada's interjurisdictional obligations.

Is not being met on an ongoing basis. Implementation of this obligation was the subject of litigation. *Nunavut Tunngavik Inc. v. Canada* (Minister of Fisheries and Oceans) was heard in the Federal Court of Canada on July 7, 1997. Essentially NTI sought to set aside the Minister's April 7, 1997 decision related to turbot quotas for the Davis Strait fishery for 1997. In his July 14, 1997 judgement, the motions judge set aside the Minister's decision as being contrary to law and referred the matter to the present Minister for reconsideration **in accordance with the reasons set out in his judgement.** The Minister of Fisheries and Oceans appealed the decision to the Federal Court of Appeal on July 2, 1998. A judgement rendered July 13, 1998 dismissed the appeal. However, it varied the motions judge's order and removed the requirement for the reconsideration to be in accordance with the motions judge's reasons as stated in his July 14, 1997 judgement. Subsequent actions are outside the review period, but it is understood that NTI and NWMB have not seen a change in the Minister's approach to allocating licences. Litigation is still pending on the 1998 turbot allocations by the Minister.

Marine Management

- 15.4.1 The NIRB, the NWB, the NPC, and the NWMB may jointly, as a Nunavut Marine Council, or severally advise and make recommendations to other government agencies regarding the marine areas, and Government shall consider such advice and recommendations in making decisions which affect marine areas.

Is being met on an ongoing basis. The NWMB, the NIRB, the NWB, and the NPC announced the formation of the Nunavut Marine Council in December, 1998. There are differing views about the role of the Nunavut Marine Council among the IPGs. There is no funding provided for the operations of the Marine Council under the NLCA or Implementation Contract. NTI sees the Nunavut Marine Council as a means to provide a united voice for promoting Inuit interests with respect to marine matters beyond those which currently exist with each IPG acting separately. A submission for funding from the Nunavut Marine Council has been turned down by DIAND.

Marine Mammal Populations (Outer Land Fast Ice Zone – East Baffin Coast)

- 16.1.3 Fisheries in the Outer Land Fast Ice Zone shall be managed so as not to deplete marine mammal populations.

Is being met on an ongoing basis. DFO points to the *Oceans Act* and other governing instruments as evidence of its commitment to manage so as not to deplete marine mammal populations. The NWMB described a good working relationship with the DFO, with practices building over time.

Observations

Government has not established structures or processes to facilitate communications with the NWMB and so implement obligations under 15.3.1, 15.3.2, 15.3.4, and 15.3.6. Implementation of the 15.3.7, Allocation of Commercial Fishing Licences Within Zones I and II, has been, and is, the subject of litigation between the Parties. The July, 1998 judgement of the Federal Court of Appeal has not provided clear direction to assist with implementation. The Nunavut Marine Council is in its infancy. The role and functions to be assumed by the Marine Council are dependent on the decisions taken by the member IPGs. There is no obligation on the part of Government to fund its operations. This does not mean Government may not choose to do so.

The dispute resolution processes under the NLCA were not used before litigation with respect to implementation of 15.3.7, Allocation of Commercial Fishing Licences Within Zones I and II. Dispute resolution processes are always an option.

Recommendations

Government should establish formal structure(s) and processes to implement obligations under 15.3.1, 15.3.2, 15.3.4, and 15.3.6.

Topic Area: Title to Inuit Owned Lands

Record of Vesting of Inuit Owned Lands

- 19.3.3 A copy of the maps referred to in Section 19.3.1, certified by both Parties as true and accurate, shall be provided to each of the Parties prior to the delivery of the maps pursuant to Section 19.3.2.
- 19.3.4 The registrar shall record the fact of the vesting of title in the DIO of the Inuit Owned Lands referred to in Section 19.3.1 as soon as possible after the date of ratification of the Agreement.
- 19.4.2 The lands described in an item of Part III of Schedule 19-8 shall vest in the DIO as Inuit Owned Lands in the form referred to in Sub-section 19.2.1(b) on the date or event specified in that item.
- 19.5.1 Any portion of the lands in Pangnirtung described in an item of Schedule 19-9 shall become Inuit Owned Lands in the form referred to in Sub-section 19.2.1(b) when the DIO acquires the fee simple interest to that portion at no cost to Government.

Has been partially met. The Parties have certified copies of maps referred to under 19.3.1. The registrar vested title in NTI and subsequently in the QIA, the KivIA and the KitIA, as appropriate, when notified of designations and with receipt of the deed of title from NTI. The registrar has noted the obligation under 19.4.2 and has processes in place to vest title in the appropriate DIO when advised. NTI designated the KitIA and the KivIA under 19.4.2 during the review period. QIA has not yet been designated. The only issue raised relates to Parcel #7, Schedule 19-8 Part III. Discussions among NTI, the interest holder, and the registrar have resolved these outstanding issues. With regard to 19.5.1, NTI had not designated QIA during the review period. Negotiations on the terms of transfer for these parcels are proceeding with the interest holders.

Grant of Future Inuit Owned Lands

- 19.4.1 Government shall grant to the DIO, as Inuit Owned Lands in the form referred to in Sub-section 19.2.1(b), the lands described in an item of Part I or II of Schedule 19-8:
- (a) in the case of Part I of the Schedule, six months after
 - (i) the DIO provides Government with a letter obtained from the lessee referred to in that item stating that the lessee consents to its lease being located on Inuit Owned Lands, or
 - (ii) the lease referred to in that item terminates, whichever event first occurs, on the condition the consent is given or the lease terminates within two years of the date of ratification of the Agreement; and
 - (b) in the case of Part II of the Schedule, when Government declares the lands to be surplus to its needs and the DIO pays Government their fair market value.

Is being met on an ongoing basis. NTI has designated the KitIA and the KivIA under 19.4.1. There are no Baffin sites. Although the timing for implementation described in the Implementation Contract has slipped, DIAND and RIAs are working cooperatively to implement these obligations.

Future grants to Government

- 19.6.1 The DIO shall grant to Government, at no cost to Government, for microwave repeater structures to be established as part of the North Warning System,
- (a) its full interest in the parcels of Inuit Owned Lands specified in Part I of Schedule 19-10, and

- (b) up to two easements on the parcels of Inuit Owned Lands specified in part II of Schedule 19-10, upon receipt by the DIO from Government of a description of the more precise locations of these parcels and that easement. Government shall survey the parcels granted under Sub-section (a).

- 19.6.2 The Inuit Owned Lands described in an item of Part III of Schedule 19-10 shall become subject to an easement, at no cost to Government, as a route for the winter resupply of the North Warning System between the places referred to in that item upon:
- (a) agreement between Government and the DIO granting to Government that easement; or
 - (b) determination by an arbitration panel pursuant to Article 38 of the location of that easement and of the terms and conditions of use for that easement.

No occasion to implement. NTI has designated the QIA and the KitIA under 19.6.1 and 19.6.2. There are no Kivalliq interests. The RIAs have noted the obligations in implementation action plans. Government has not sought implementation of the obligations.

Alienation of Inuit Title

- 19.7.1 Subject to Section 19.7.2, title to Inuit Owned Lands shall not be conveyed, transferred or otherwise disposed of by the DIO except to another DIO or the Government of Canada or as otherwise provided in the Agreement.
- 19.7.2 Within a municipality, title to Inuit Owned Lands may be conveyed, transferred or otherwise disposed of by the DIO to the Government of Canada, Territorial Government or a Municipal Corporation as appropriate.

Is being met on an ongoing basis. The NTI Rules and Procedures for the Management of Inuit Owned Lands, first completed in 1994 and most recently updated in February, 1999, govern the implementation of these obligations. The Rules and Procedures for Management of Inuit Owned Lands apply to all RIAs.

Preparation of Descriptive Map Plans

- 19.8.1 Government shall prepare, and, within two years of the date of ratification of the Agreement, complete at no cost to the DIO, descriptive map plans for all Inuit Owned Lands vesting pursuant to Section 19.3.1 or Sub-section 19.4.1(a) that have not been surveyed and that are not required to be surveyed pursuant to Sub-section 19.8.8(d).

Has been met. The descriptive map plans (DMPs) were completed as scheduled.

Delivery to Registrar of Descriptive Map Plans

- 19.8.4 Upon approval by the DIO and Government, the descriptive map plans prepared pursuant to Section 19.8.1 shall be jointly delivered by the Parties to the registrar at no cost to the DIO and shall, immediately upon delivery, become the property descriptions of Inuit Owned Lands, replacing the initial property descriptions, effective as of the date of ratification of the Agreement.

Has been met. There were some delays in obtaining approvals of the DMPs (it was not always clear who, within the Parties, was going to sign the DMPs to signify approval). The approved DMPs were delivered to the registrar in February, 1996 and registration completed in June, 1996.

Notification of Vesting

19.8.5 Upon delivery pursuant to Section 19.8.4 of any descriptive map plan for any parcel of Inuit Owned Lands that vests under Section 19.3.1 or Sub-section 19.4.1(a), the Minister shall deposit with the registrar a notification that the parcel of Inuit Owned Lands has been vested in the DIO and this notification shall be accepted by the registrar and dealt with in all respects, including the issuance of a certificate of title, as if it were letters patent in favour of the DIO, even if there is no plan of survey and regardless of the size of the parcel.

Has been met.

Surveys

19.8.8 The majority of Inuit Owned Lands will not require surveys to determine the boundaries, however:

- (a) the boundaries or part of the boundaries of Inuit Owned Lands shall be surveyed by Government when the DIO and Government agree that surveys are required to avoid or resolve conflicts with another title or interest holder;
- (b) the boundaries or part of the boundaries of Inuit Owned Lands may for any purpose be surveyed at Government's discretion;
- (c) the boundaries of the parcels excluded from Inuit Owned Lands described in Schedule 19-12 shall be surveyed by Government within one year of the date of ratification of the Agreement; and (d) the boundaries of Inuit Owned Lands within municipal boundaries that are described in Schedule 19-13 shall be surveyed by Government within three years of the date of ratification of the Agreement.

19.8.9 The Government of Canada shall be responsible for the cost of each legal survey which is conducted pursuant to Section 19.8.8 provided that this provision shall not prevent that Government from levying charges in respect of such surveys on any person whose lands abut Inuit Owned Lands.

Is being met on an ongoing basis. Early in the review period, Government and NTI agreed that the DMPs were not going to provide adequate descriptions of IOL parcels, and all parcels should be surveyed to isolated boundary standards. A 10 year survey program to survey 1,155 parcels (excluding islands) commenced in 1994. Government is responsible for the cost of the program, and Canada has identified additional financial resources for its completion. The survey program is on schedule. Concerns have been raised about the level of certainty provided by the isolated boundary standard.

Replacing Previous Property Descriptions

19.8.12 Where a legal survey is completed for any boundary or any part of a boundary of Inuit Owned Lands, the plan of survey, when signed by the DIO and Government and delivered to the registrar, shall become the property description for that boundary or that part, replacing any previous property description of that boundary or that part, effective as of the date of ratification of the Agreement.

Is being met on an ongoing basis. With the decision to survey all IOL parcels, there has been an unanticipated increase in the volume of replacement titles. This call on the resources of the registrar was not anticipated when implementation funding was established. NTI has expressed some concern about delays with recording. In some cases, early surveys are being redone to bring them to the standard established during the 1997-98 survey season. All agree that the decision taken to establish the survey program was the right one (although not required by the NLCA) and progress is being made.

Subsurface Boundary Disputes

19.8.17 Any dispute as to boundaries between the holders of recorded mineral claims, one or more of which is,

- (a) in existence at the date of ratification of the Agreement, or
- (b) recorded after the date of ratification of the Agreement but under the terms of a prospecting permit in effect on the date of ratification of the Agreement,

and which is located in whole or in part on Inuit Owned Lands held in the form referred to in Sub-section 19.2.1(a) or (b) shall be resolved in accordance with the provisions of the *Canada Mining Regulations* in existence at the date of ratification of the Agreement.

19.8.18 Any disputes as to boundaries between a holder of a recorded mineral claim described in Sub-section 19.8.17(a) or (b) and the holder of an interest created by the DIO in Inuit Owned Lands held in the form referred to in Sub-section 19.2.1(a) shall be resolved in accordance with the provisions of the *Canada Mining Regulations* in existence at the date of ratification of the Agreement.

19.8.19 The registrar shall, upon deposit of a decision pursuant to Section 19.8.17 or 19.8.18 in the land titles office, reflect that decision in any documents registered in the office.

No occasion to implement. There were no disputes during the review period. NTI and DIAND have begun work to identify the effect of 21.7.4, Third Party Access – Existing Interests, on the implementation of this obligation. Once agreement is reached, operational procedures will be developed.

Reimbursement (Municipal Land Development Costs)

19.10.1 The DIO shall reimburse the Territorial Government for the costs listed in Schedule 19-14, being costs incurred before the date of ratification of the Agreement in the development of each of the parcels of Inuit Owned Lands that are specified in the Schedule, payment to be made at the time that a development permit is issued in respect of that parcel.

No occasion to implement. NTI has designated the RIAs as DIOs. The Territorial Government does not have a process in place to ensure reimbursement occurs. RIAs have variously noted the obligation to reimburse Government. It is not clear who is responsible to initiate implementation of this obligation.

Observations

Involved agencies have commented favourably on the implementation of the survey program commenced under 19.8.8. There was some confusion noted about who had the lead in implementing 19.10.1, Municipal Land Development Costs.

Recommendations

NTI should designate the QIA as the DIO under 19.5.1.

Government should examine the use of the isolated boundary standard for surveys being completed under 19.8.8.

The Government of Nunavut and the RIAs should establish a process for implementation of 19.10.1, Municipal Land Development Costs, including initiation of the process.

Topic Area: Rights to Carving Stone

Notification of Deposits and Exclusive Quarry Lease or Acquisition of Title

19.9.1 Following the date of the ratification of the Agreement, Government shall notify the DIO of the discovery of any deposits of carving stone on Crown lands.

19.9.2 Following the date of the ratification of the Agreement, the DIO shall, subject to Government obligations respecting third party rights, have the right:

- (a) to obtain an exclusive quarry lease to significant deposits of carving stone; or
- (b) to acquire title to the land containing significant deposits of carving stone in exchange for other Inuit Owned Lands.

Lands acquired under Sub-section (b) shall be Inuit Owned Lands.

19.9.3 If Government and the DIO cannot agree on the lands to be exchanged pursuant to Sub-section 19.9.2(b), the matter shall be referred to arbitration pursuant to Article 38.

Is not being met on an ongoing basis. NTI has designated the RIAs under 19.1.1 (sic), 19.9.2, and 19.9.3. Neither Government nor RIAs are aware of a formal process for implementation of this obligation. RIA implementation plans call for the notification of Government about DIO status.

Study of Deposits within Proposed Park Boundaries

19.9.7 Prior to the establishment of a National Park in the Nunavut Settlement Area, the agency responsible for establishing the Park shall undertake at the request of Inuit in affected communities, when there is potential for carving stone, a detailed study to determine the location, the extent and quality of any deposit of carving stone within the proposed boundaries of the Park. At the request of Inuit, significant deposits of carving stone and routes of access shall be excluded from the boundaries of the Park, insofar as such exclusions would not appreciably detract from the park purpose or objectives.

No occasion to implement. NTI has designated RIAs under 19.9.7. RIAs are not aware of Government's implementation process.

Observations

Processes to implement these obligations have not been established.

Recommendations

Government and the RIAs should work together to establish formal processes to implement obligations related to carving stone.

Topic Area: Entry and Access

Access Only With Consent

21.2.1 Except where otherwise provided in the Agreement persons other than Inuit may not enter, cross or remain on Inuit Owned Lands without the consent of the DIO.

Is being met on an ongoing basis. NTI designated RIAs under 21.2.1. RIAs have established procedures for application to access IOLs.

Exclusive Possession – Procedures

21.3.5 Where the DIO requires exclusive possession, the right of access referred to in Section 21.3.1, the right to harvest referred to in Section 21.3.2, and the right to cross Inuit Owned Lands referred to in Section 21.3.9 may be removed with the agreement of the DIO and Government.

Is being partially met on an ongoing basis. NTI designated RIAs for implementation of this obligation on specified surface lands and jointly with NTI where subsurface IOL is involved. This obligation has been implemented in relation to Marble and Quartzite Islands. The process followed involved:

1. Initial notification from NTI to the NIP of their interest in acquiring exclusive possession;
2. Presentation of resolutions from NTI, the involved RIA and affected municipality in support of exclusive possession;
3. Information from the NIP to Governments for internal consultations;
4. Negotiation of an agreement signed by Governments, NTI, and the RIA; and,
5. Development of a communications plan to let general and interested publics know about the existence and effect of the exclusive possession agreement.

This process is not formalized in government or DIO procedures.

Access for Research for Public Knowledge

21.3.11 With the consent of the DIO, persons conducting research for public knowledge shall:

- (a) have the same right of access to Inuit Owned Lands as agents, employees and contractors of Government; or
- (b) have a right of access to Inuit Owned Lands in accordance with terms and conditions imposed by the DIO, other than the payment of fees.

Is being met on an ongoing basis. NTI designated RIAs for implementation of this obligation. RIAs have established procedures with the Nunavut Research Institute to receive applications for research projects. RIA land management procedures govern subsequent action by the RIA. The procedures are working well.

Obtaining Interest on Inuit Owned Lands by Government

21.5.2 Should Government, the Canadian Forces or the RCMP require continuing use or occupancy of Inuit Owned Lands for more than two years, including use for unmanned facilities, the DIO may require Government to obtain an interest in the land.

Is being partially met on an ongoing basis. NTI designated RIAs for implementation of this obligation. RIAs have established procedures in place to implement the obligation once notified by Government of their requirement. There were no established procedures widely available throughout Governments to ensure implementation of this obligation. An example of non-compliance by Government was offered by the KitlA.

Government Access

- 21.5.5 In a case where more than insignificant damage may be caused to the land, or where there may be more than insignificant interference with Inuit use and quiet enjoyment of the land, Government shall consult the DIO and seek its agreement regarding the procedures for exercising government access under Sections 21.5.1 and 21.5.3. Where agreement cannot be achieved, the matter shall be referred to the Arbitration Board for the determination of such procedures pursuant to Article 38. Activities identified in Schedule 21-4 shall not be subject to the requirements of this Section.
- 21.5.7 Government personnel need access to Inuit Owned Lands for the purpose of wildlife management and research. Notwithstanding Section 21.5.1, access to Inuit Owned Lands by Government personnel for the purposes of wildlife management and wildlife research shall be subject to the approval of the NWMB subsequent to consultation with the appropriate RWO.
- 21.5.9 In the event that any person exercising access under Section 21.5.1 causes damage to Inuit Owned Lands, and Government and the DIO are unable to agree on compensation for damages, the matter shall be referred to the Arbitration Board, for the determination of liability and fixing of appropriate compensation pursuant to Article 38.

Is being partially met on an ongoing basis. NTI designated RIAs for implementation of this obligation. RIAs have established procedures to implement the obligation once notified by Government of their requirement. There were no established procedures widely available throughout Governments to ensure implementation of this obligation. An example of non-compliance by Government was offered by the KitIA.

Advance Notice Procedures – Military Manoeuvres

- 21.5.12 Other than access for those manoeuvres referred to in Section 21.5.11, access onto and across Inuit Owned Lands and water on Inuit Owned Lands for each manoeuvre shall only occur after the negotiation and conclusion of an agreement with the DIO dealing with contact persons, consultation mechanisms and timing thereof and compensation for damages, which agreement may be amended from time to time. Land use fees shall not be charged.
- 21.5.13 Reasonable advance notice, in Inuktitut, of military manoeuvres shall be given by DND to the inhabitants of any area affected.

Is being partially met on an ongoing basis. NTI has designated the RIAs for implementation of these obligations. The DND is annually notifying NTI about plans for military manoeuvres. RIAs do not recall receiving information about these plans. There is a breakdown in communication links. DIAND has not distributed the DIO list within federal departments and to agencies having implementation obligations. NTI has assumed DIAND did this. The DND is attempting to implement this obligation but is sending the information to the wrong place. In addition to annual notification of planned manoeuvres, the DND contacts the Rangers in the community(ies) closest to the planned manoeuvres. It is assumed a senior member of the Rangers will notify community residents of planned manoeuvres. There are no procedures in place to identify who, within the community, should be notified.

Third Party Access – Existing Interests

- 21.7.2 Where Inuit Owned Lands held in the form referred to in Sub-section 19.2.1(a) are subject to a third party interest in minerals other than specified substances, in existence immediately before the vesting of the Inuit Owned Lands in the DIO, that interest shall

continue in accordance with its terms and conditions, including rights granted to the interest holder under the legislation in force at the date of vesting pursuant to which the interest is held, or from any successor legislation applicable to similar interests on Crown lands. Any provisions of such successor legislation that would have the effect of diminishing the rights of the DIO shall only apply to Inuit Owned Lands with the consent of the DIO. The DIO shall receive whatever consideration is paid or payable by the interest holder for the use or exploitation of the minerals other than specified substances in respect of any period following the date of vesting.

- 21.7.3 Every third party interest referred to in Section 21.7.2 shall continue to be administered by Government in accordance with legislation applicable to similar interest in Crown lands. Subject to any consent from the DIO required by Section 21.7.2, such legislation, including any successor legislation, shall be deemed to apply to the third party interest unless the holder of that interest and the DIO agree to the administration of that interest by the DIO. Upon notification by the interest holder and the DIO of such an agreement, the legislation shall no longer be deemed to apply to that interest and Government shall do whatever is required to transfer administration to the DIO.
- 21.7.4 Subject to Section 21.7.5, all powers, discretions and authorities in relation to third party interests referred to in Section 21.7.2, affecting the interest of the DIO as title holder, shall be exercised by Government in consultation with the DIO.
- 21.7.5 Where Government has the discretion to reduce or waive a royalty payable by a third party interest holder referred to in Section 21.7.2, such discretion shall not be exercised without the written consent of the DIO.
- 21.7.6 Government shall share with the DIO any information received from a third party interest holder referred to in Section 21.7.2 which that party is required to provide by legislation, where such information is required to permit the DIO:
- (a) to verify the consideration paid or payable to Government by the interest holder for the use or exploitation of the minerals other than specified substances; or
 - (b) to participate in consultation with Government regarding third party interests as provided for in this Article.

Is being partially met on an ongoing basis. Initially there was no process for the payment of mineral lease rentals. This obligation is now being met on an ongoing basis. There were no royalties due under 21.7.2 during the review period. There is no formal process for payment of royalties should the occasion arise to implement this obligation. To date, no holder of a third party interest has requested that administration of an interest be transferred to NTI. There is no formal process to effect such a transfer, should the occasion arise. At the request of NTI, DIAND implemented procedures to notify third party interest holders (and potential interest holders) of obligations under 21.7.4. As noted above in 19.8.17, 19.8.18, and 19.8.19, Subsurface Boundary Disputes, NTI and DIAND have begun to work to identify "all powers, discretions and authorities" that affect "the interest of the DIO as title holder". Once agreement is reached, operational procedures can be developed. DIAND and NTI held discussions about sharing information to implement obligations under 21.7.6. NTI prepared a draft agreement in September, 1997 for consideration. No response was received during the review period. It is understood that NTI and DIAND have agreed to pursue discussions about information sharing in a larger context and include obligations under Article 25.

Exercise of Third Party Access of Right Respecting Minerals

21.7.9 A person having a right to prospect for minerals and whose activities are of a nature that would not require a land use permit under the Territorial Land Use Regulations (SOR/77-210, March 4, 1977) if they were conducted on Crown lands, shall have a right of access to Inuit Owned Lands, for the purpose of conducting those activities, with the consent of the DIO, and the DIO shall grant its consent if the activities are conducted in a manner consistent with the code for expedited prospecting access approved pursuant to Section 21.7.10.

21.7.10 For the purpose of Section 21.7.9, the DIO shall propose, for review with Government and relevant industry organizations, a code to provide expedited prospecting access to Inuit Owned Lands, which code shall come into effect upon approval by Government and the DIO. The code shall reflect the need to provide confidentiality for prospectors.

Has not been met. NTI developed and proposed a draft code to DIAND in 1997. NTI has not received a response and discussions have not been pursued. In the interim, NTI has amended its Rules and Procedures for the Management of Inuit Owned Lands to provide for a Class I land use licence which expedites prospecting access.

Other Commercial Purposes – Access Procedures

21.7.15 Where a person requires access across Inuit Owned Lands for commercial purposes, and is not otherwise covered in this Article, that person shall be permitted access, including on a seasonal basis where appropriate, with the consent of the DIO or, if such consent is not forthcoming after an arbitration panel, pursuant to Article 38, within 30 days of being presented with a request,

- (a) has established that the person attempted for a period of not less than 60 days, to negotiate the access in good faith,
- (b) has determined that the access is essential to the commercial purpose and access by any other means is physically or financially impractical, and
- (c) has determined the route such access will follow so as to minimize the damage and interference with Inuit use,

and, based on the arbitration panel's findings, the Tribunal, in keeping with Part 8, has issued an entry order. The entry order shall include terms and conditions to minimize damage and interference with Inuit use.

Is being met on an ongoing basis. NTI designated RIAs for implementation of this obligation. Established procedures are found in the Rules and Procedures for the Management of Inuit Owned Lands and the RIAs' procedural manuals or implementation action plans.

Observations

No issues were raised about the completion of an agreement for exclusive possession of Marble and Quartzite Islands. The process that was followed appeared to work well. Governments state they are aware of obligations under 21.5.2, 21.5.5, 21.5.7, and 21.5.9, Obtaining Interest and Government Access on IOL. However, no formal procedures to implement these obligations were discovered. There was a specific example of non-compliance.

DIAND and NTI had discussions during the review period about implementing obligations respecting Third Party Access – Existing Interests. There are issues related to obligations under Article 25. It would appear that NTI and DIAND intend to pursue their discussions in this larger context. Discussions related to a code for expedited prospecting access appear stalled.

Recommendations

Government and NTI should establish a process to implement obligations under 21.3.5, Exclusive Possession. The process used in the development and approval of the agreement for exclusive possession of Marble and Quartzite Islands be considered as a starting point for discussions.

Governments should establish formal procedures to implement obligations under 21.5.2 and 21.5.5, 21.5.7, and 21.5.9, Obtaining Interest and Government Access on IOL.

The DND should revise its distribution list for annual notification about planned military manoeuvres and should establish procedures for notification of community residents by the Rangers.

DIAND and NTI should pursue discussions related to Third Party Access – Existing Interests with a view to establishing procedures for implementation of these obligations. These discussions may take place in a larger context which includes obligations contained in Article 25.

DIAND and NTI should pursue discussions about a code to provide for expedited prospecting access in a timely fashion.

Topic Area: Surface Rights Tribunal (SRT)

Establishment of Surface Rights Tribunal (SRT)

- 21.8.1 A DIO has the right to require Government to establish and maintain an independent Surface Rights Tribunal ("Tribunal") which shall, within the Nunavut Settlement Area:
- (a) issue entry orders to operators to use and occupy lands to the extent necessary for their operations and subject to the payment of an entry fee to the owner or occupant in recognition of the forced nature of the taking, which fee shall be fixed by the appropriate legislation;
 - (b) hold hearings to determine compensation payable to the surface rights holders;
 - (c) periodically review the level of compensation payable under an entry order;
 - (d) terminate an entry order, after a hearing, where lands are no longer being used for the purpose authorized; and
 - (e) such other functions as may be provided for in the Agreement or legislation.

Has not been met. The Minister announced appointments of SRT members on April 25, 1996 contrary to 10.10.1. Legislation establishing the SRT has not been passed. Since the end of the review period, the SRT has adopted By-laws and Rules of Practice to guide operations. The SRT did not hold a hearing during the review period.

- 21.8.2 Where the DIO is the surface title holder, it shall not be required to cover any of the costs of establishing or operating the Tribunal. Government may establish and maintain the Tribunal notwithstanding the absence of a demand from a DIO, provided that the Tribunal fulfils the functions described in Section 21.8.1.

- 5.14 (Implementation Contract) Notwithstanding Section 5.1, the Government of Canada shall, in accordance with budgets approved in the manner described in Section 5.15, provide funding for the costs of hearings that the NWB and the SRT and reviews that the NIRB are required by law to conduct, including the costs of:
- m) the travel, accommodation, expenses and honoraria of members travelling and attending hearings and reviews;
 - n) translation and interpretation services;
 - o) facilities and equipment;
 - p) preparation and distribution of transcripts;
 - q) legal counsel; and
 - r) staff expenses, where travel is required.

- 5.15 (Implementation Contract) For the purpose of obtaining funding under Section 5.14, NIRB, the NWB and the SRT shall be required to submit budgets for hearings and reviews to the Implementation Panel for review. The budgets shall be forwarded to the appropriate Minister or Minister's delegate by the Implementation Panel with any recommendations of the Panel and are subject to approval of the Minister or Minister's delegate.

Is being partially met on an ongoing basis. The SRT prepares annual budgets which are subject to review and approval by DIAND. DIAND uses a contribution agreement to flow funds to the SRT. The SRT and NTI have objected to the form and content of the contribution agreement since 1996. This issue is discussed in more detail in Section 5.4.6, Funding Arrangements for the IPGs. Implementation of 5.14 and 5.15, Funding for Hearings, is untested. The SRT is concerned that 5.14 does not include pre-hearing costs. DIAND felt this issue could likely be resolved through the clarification of terminology.

- 21.8.7 The legislation shall provide that at least half of the members of any panel in any case dealing with Inuit Owned Lands shall be residents of the Nunavut Settlement Area.

Has not been met. No legislation has been passed. Bill C-62, an Act that in part establishes the SRT, received first reading in December, 1998.

Observations

The Implementation Contract and NLCA provide little information about implementation of obligations and activities for the establishment and operations of the SRT. For example, no activities are listed for appointment, orientation, conflict of interest, etc. The NLCA saw the SRT as the first IPG to be established under 10.1.1. It was the last. Concerns related to the passage of legislation and general funding issues are discussed in Section 5.4.4, Legislation Establishing the IPGs. The specific funding issue related to pre-hearing costs is outstanding. The issue of implementation legislation is discussed in Section 5.4.6, Funding Arrangements for the IPGs.

Recommendations

The SRT should work with DIAND to address the issue of pre-hearing costs as part of an efficient means of dealing with the hearing process.

The recommendations in Section 5.4.4, Legislation Establishing the IPGs and 5.4.6, Funding Arrangements for the IPGs should be considered.

Expropriation Procedures

- 21.9.3 An expropriation other than an expropriation referred to in Section 21.9.14, shall be approved by a specific order of the Governor in Council.
- 21.9.4 Any expropriation legislation coming into force after the date of ratification of the Agreement shall, insofar as it applies to Inuit Owned Lands, provide for the following minimum procedures:
- (a) notice of intention to expropriate served on the DIO;
 - (b) an opportunity for the DIO to object to the expropriation on the basis that the expropriating authority has not complied with the expropriation legislation, and an opportunity to be heard on that objection; and
 - (c) the determination of compensation by negotiation and mediation and, failing that, by reference to an arbitration panel or committee referred to in Section 21.9.8.

No occasion to implement.

Expropriation of Inuit Owned Land – Reacquiring Lands

- 21.9.5 Where the expropriating authority acquires an estate in fee simple, those lands shall no longer be Inuit Owned Lands. Lands acquired as compensation for expropriation shall be Inuit Owned Lands. Where lands which have been expropriated are no longer required, the DIO shall have an option for six months following such a determination to re-acquire those lands as Inuit Owned Lands. If the parties are unable to agree on a price, the matter shall be referred to the arbitration panel or committee referred to in Section 21.9.8.

No occasion to implement.

Expropriation: Determination of Compensation

- 21.9.8 Where the DIO and the expropriating authority continue to disagree on compensation, and mediation, if provided for, fails, the final determination of any compensation payable shall be by arbitration:
- (a) as set out in Article 38, other than for expropriation under the *National Energy Board Act*; or
 - (b) for expropriation under the *National Energy Board Act*, by an arbitration committee appointed under the Act that shall include at least one nominee of the DIO. The Minister in establishing the arbitration committee shall choose members who have special knowledge of, and experience related to, the criteria set out in Section 21.9.9.
- 21.9.9 In determining the amount of compensation payable to the DIO the arbitration panel or committee shall be guided by:
- (a) the market value of the land;
 - (b) loss of use to the DIO and Inuit;
 - (c) the effect on wildlife harvesting by Inuit;
 - (d) the adverse effect of the taking, upon lands retained by the DIO;
 - (e) damage which may be caused to the land taken;
 - (f) nuisance, inconvenience and noise to the DIO and Inuit;
 - (g) the cultural attachment of Inuit to the land;
 - (h) the peculiar and special value of the land to Inuit;
 - (i) an amount to cover reasonable costs associated with DIO inspections as deemed appropriate by the arbitration panel or committee;
 - (j) an amount to cover reasonable costs to the DIO associated with the arbitration; and
 - (k) any other factors as may be provided for in legislation.

No occasion to implement.

Expropriation: For Public Transportation Purposes

- 21.9.12 Where Government has a right under Section 21.9.1, as qualified by this Article, to expropriate Inuit Owned Lands which it requires for its public transportation purposes, Government need not pay compensation for the lands taken, except for improvements, up to an amount not exceeding,
- (a) in respect of each Inuit Owned Lands Parcel, five percent (5%) of that Parcel, or
 - (b) two percent (2%) of Inuit Owned Lands in the Land Use Region, referred to in any of Schedules 19-2 to 19-7, where the lands taken are located.
- Where lands taken under this Section are no longer required for the purpose for which they were taken, they shall revert to the DIO at no cost.

No occasion to implement.

Expropriation Procedures – Within Municipal Boundaries

- 21.9.14 An expropriation of Inuit Owned Lands within municipal boundaries for municipal purposes must be approved by a specific order of the Commissioner-in-Executive Council. Inuit Owned Lands expropriated for municipal purposes shall be taken into account in calculating areas under Sections 21.9.10 and 21.9.12.

No occasion to implement.

Observations

Implementation of expropriation obligations has not been seen as pressing. Bill C-62, Nunavut Waters and Nunavut Surface Rights Tribunal Act, addresses federal obligations. See also the discussion in Section 5.4.4, Legislation Establishing the IPGs.

Recommendations

The Parties should consider the recommendations in Section 5.4.4, Legislation Establishing the IPGs.

Inuit Labour Force Analysis

- 23.3.1 Within six months of the date of ratification of the Agreement and as a basis for the development of initiatives contemplated in this Article, the Government shall, with the participation of the NITC, undertake a detailed analysis of the labour force of the Nunavut Settlement Area to determine the availability, interest and level of preparedness of Inuit for government employment.
- 23.3.2 The purpose of the analysis in Section 23.3.1 is to assess the existing skill level and degree of formal qualification among the Inuit labour force and to assist in formulating Inuit employment plans and pre-employment training.
- 23.3.3 It is understood that the analysis in Section 23.3.1 will incorporate and build upon existing data wherever possible.

Has not been met.

Observations

The obligation to complete the labour force analysis was for January, 1994. In March, 1994, the Federal Government advised that the labour force analysis would be completed in the fall of 1994. In January, 1995, the Federal Government tabled a draft labour force analysis.

In February, the GNWT concluded that the labour force analysis "... has totally missed the mark with regards to (the objectives of section 23.3.2 of the NLCA). It is little more than a community profile document, is confusing and difficult to read and contains virtually no labour force analysis." In March, NITC issued a critical review followed by more detailed comments from the GNWT in August.

Comments were called for at the January, 1995 meeting of the NIP. The minutes of this meeting did not contain the concerns previously stated by the GNWT and NITC. The minutes did not contain any comments from NTI about the labour force survey. The minutes for the September, 1995 NIP meeting extend to 14 pages, but indicate only that, "Human Resources Development is hiring a consultant to finalize the report."

The minutes of the December, 1995 NIP meeting indicate in passing that no further work would be done at present on the draft labour force analysis, apart from updating it. This amounted to an informal agreement to eliminate a significant obligation in the contract. This action is inconsistent with the process for amending the Agreement.

Development of the IEPs proceeded without the benefit of the labour force analysis

Recommendations

The Parties should determine if there is any benefit to completing a labour force study.

Alternatively, the Parties should formally amend the Agreements to eliminate the obligation.

Inuit Employment Plans

- 23.4.1 Within three years of the date of ratification of the Agreement, each government organization shall prepare an Inuit employment plan to increase and maintain the employment of Inuit at a representative level.
- 23.4.2 An Inuit employment plan shall include the following:
- (a) an analysis to determine the level of representation of Inuit in the government organization and to identify areas of under-representation by occupational grouping and level and regular full-time and regular part-time employment status;
 - (b) phased approach, with reasonable short and medium term goals, in the form of numerical targets and timetables for employment of qualified Inuit at all levels and occupational groupings where under-representation has been identified; such goals to take into account the number of Inuit who are qualified or who would likely become qualified, projected operational requirements, and projected attrition rates;
 - (c) an analysis of personnel systems, policies, practices and procedures in the organization to identify those which potentially impede the recruitment, promotion, or other employment opportunities of Inuit;
 - (d) measures consistent with the merit principle designed to increase the recruitment and promotion of Inuit, such as
 - (i) measures designed to remove systemic discrimination including but not limited to
 - removal of artificially inflated education requirements,
 - removal of experience requirements not based on essential consideration of proficiency and skill,
 - use of a variety of testing procedures to avoid cultural biases,
 - (ii) intensive recruitment programs, including the distribution of competition posters throughout the Nunavut Settlement Area, with posters in Inuktitut as well as Canada's official languages as required;
 - (iii) inclusion in appropriate search criteria and job descriptions of requirements for an understanding of the social and cultural milieu of the Nunavut Settlement Area, including but not limited to
 - knowledge of Inuit culture, society and economy,
 - community awareness,
 - fluency in Inuktitut,
 - knowledge of environmental characteristics of the Nunavut Settlement Area,
 - northern experience,
 - (iv) Inuit involvement in selection panels and boards or, where such involvement is impractical, advice to such panels and boards,
 - (v) provision of counselling services with particular attention to solving problems associated with accessibility of such services,
 - (vi) provision of in-service education assignment and upgrading programs adequate to meet employment goals,
 - (vii) promotion of apprenticeship, internship and other relevant on-the-job training programs,
 - (viii) special training opportunities,
 - (ix) use of measures which are found to be successful in achieving similar objectives in other initiatives undertaken by Government, and

- (x) cross-cultural training;
- (e) identification of a senior official to monitor the plan; and
- (f) a monitoring and reporting mechanism on implementation of the plan.

Is being partially met on an ongoing basis. IEPs were prepared on time, but, they were lacking in completeness, effective implementation, and monitoring. See Section 3.0 for details on the IEPs and related issues.

Posting Inuit Employment Plans

23.4.3 All employment plans shall be posted in accessible locations for employee review.

Is not being met on an ongoing basis. No employees could be found who remembered seeing IEPs posted, nor did the Review Team observe IEPs during visits to government offices. Senior managers monitoring the IEPs also indicated that IEPs are not generally posted.

Exceptions to Inuit Employment Plans

23.4.4 Notwithstanding the overall objectives of this Article, it is understood that some organizations may employ so few persons in the Nunavut Settlement Area that strict application of the above measures may not be practicable.

Has been met.

Observations

Officials of NTI and DIAND met in Iqaluit on March 26, 1997 to discuss the February 10, 1997 letter from the Secretary-Treasurer of NTI to Minister Irwin. The Minister's response to NTI's letter on April 22 1997 states:

"I understand agreement was reached on the following issues: - Compliance by departments that have not submitted IEPs. It was agreed that departments with three or fewer employees in the NSA would not be required to prepare an IEP. I can confirm therefore that IEPs are not required by the following departments identified in your letter: Public Works and Government Services, the Environment, National Revenue, Natural Resources, National Defence (Canadian Forces) and the Royal Canadian Mounted Police.

Although PWGS did prepare an IEP last July, it will not be required to update the plan unless it increases its number of employees in the NSA. The Department of the Environment will be preparing an IEP this spring/summer as its number of employees increased to a total of four as of April, 1 1997." None of the departments with over three employees updated their IEPs.

It is also noted that, although the DND (Canadian Forces) was not required to prepare a plan, it is the only government department in which over 85% of its members in Nunavut are Inuit.

Recommendations

Government should update IEPs and ensure that all requirements of 23.4.2 are met.

Government should post current IEPs in all government offices.

Topic Area: Inuit Employment Within Government

Pre-Employment Training Plans

23.5.1 The plans outlined in Part 4 will require special initiatives to provide some Inuit with skills to qualify for government employment. Government and the DIO shall develop and implement Pre-Employment Training Plans.

23.5.2 To the extent possible, the plans referred to in Section 23.5.1 shall be designed to meet the special needs of Inuit by various means, including:

- (a) instruction in Inuktitut;
- (b) training within the Nunavut Settlement Area.
- (c) distribution of training sites among communities,
- (d) the taking into account of Inuit culture and lifestyle

Is not being met on an ongoing basis. There has been no meaningful effort or interest by Government in implementing any Pre-Employment Training Plans.

Observations

In preparation for this report, on November 2, 1998, DIAND Nunavut Implementation Manager wrote to the eight federal government departments which were required to prepare and implement Pre-Employment Training Plans (PTPs), "... which by now have been developed and implemented. An overview of the status of the pre-employment training developed by your department would be appreciated." Six departments responded. None pointed to a written or formal Pre-Employment Training Plan. Several felt the IEPs met the obligations of the PTPs. In short, there were no PTPs.

There has been little over the last five years on PTPs, however, a few exceptions do exist.

DFO and NRCAN can be credited with some success in meeting the intent of this obligation by providing proactive programs that successfully trained Inuit for jobs in their department.

Recommendations

Each government department should prepare a Pre-Employment Training Plan.

Cooperation and Support Measures

- 23.2.2 In pursuit of this objective, Government and the DIO shall cooperate in the development and implementation of employment and training as set out in the Agreement.
- 23.6.1 Recognizing that active participation of Inuit in the employment and training programs will be required in order to meet the objective set out in Part 2, the DIO shall, to the extent possible, undertake, with assistance from Government, to play a primary role in the establishment and maintenance of support measures to enhance the potential for success of the measures undertaken pursuant to this Article

Is not being met on an ongoing basis.

Observations

There has been little meaningful cooperation and support between the Government, NTI, and the RIAs in the development and implementation of the major obligations of this Article.

The Nunavut Unified Human Resources Development Strategy (NUHRDS) was a constructive attempt to cooperate in moving towards a goal of increased Inuit employment, however, this strategy was not a Pre-Employment Training Plan. Nor was there any documented agreement that NUHRDS was intended to satisfy any of the specific obligations in Article 23.

Recommendations

The Parties should develop a written plan describing how they will work together to implement Article 23.

Review, Monitoring, Compliance of Inuit Employment Plans

- 23.7.1 On the fifth anniversary of the date of ratification of the Agreement and at five-year intervals thereafter, or at such other dates as may be agreed upon by the Implementation Panel, the Panel shall arrange for an independent review of the Inuit employment plans and other measures under this Article.

The Implementation Panel shall identify and recommend measures to correct any deficiencies in the implementation of this Article. With respect to Pre-Employment Training Plans under Part 5, the Panel shall consult with the NITC prior to identifying or recommending measures to correct any deficiencies in the implementation of Part 5.

Is being met on an ongoing basis. The Review is a year late.

- 23.7.2 The findings of the independent review and recommendations for the Implementation Panel shall be consolidated in the relevant annual report prepared by the Implementation Panel pursuant to Sub-section 37.3.3(h).

No occasion to implement.

Observations

None.

Recommendations

None.

Topic Area: Procurement Policies

Government of Canada Policies

24.3.1 Consistent with this Article, the Government of Canada shall develop, implement or maintain procurement policies respecting Inuit firms for all Government of Canada contracts required in support of its activities in the Nunavut Settlement Area.

Is being partially met on an ongoing basis. The Federal Government has developed, implemented, and updated procurement policies respecting Inuit firms. These policies are not being applied to all applicable parts of the federal Party. It appears that certain departments and crown corporations have not implemented the appropriate policies as required under Article 24.1.1 of the NLCA.

See Section 5.5, Implementation of Article 24, for further discussion on crown corporations and monitoring and reporting in the context of Article 24.

Close Consultation

24.3.2 The Government of Canada shall develop or maintain its procurement policies in close consultation with the DIO, and shall implement the policies through legislative, regulatory or administrative measures.

Is not being met on an ongoing basis. There has been a meaningful exchange of thinking between the two Parties. Legitimate points of process remain unresolved. Both Parties have something to contribute towards a constructive consultation process.

See Section 5.5, Implementation of Article 24, for an additional discussion on consultation, communications, and the need for constructive working relationships.

Date of Effect

24.3.3 The measures referred to in Section 24.3.2 shall be binding on the Government of Canada, and shall be given effect:

- (a) in all cases, no later than one year following the date of the ratification of the Agreement; and
- (b) with respect to survey contracts, prior to the award of survey contracts arising from Article 19.

Has not been met. Treasury Board Contracting Policy was issued to departments in March 1995, 20 months following ratification. It was not given effect in PWGS, the largest contracting organization, until May, 1996.

As an example of the benefits of constructive working relationships, front-line managers of the two Parties were able to arrange for survey work (which commenced in 1994) to include significant Inuit content two years prior to formal policies being in place.

Respond to Developing Nature

24.3.5 Procurement policies and implementing measures shall be carried out in a manner that responds to the developing nature of the Nunavut Settlement Area economy and labour force. In particular, the policies shall take into account the increased ability, over time, of Inuit firms to compete for and to successfully complete government contracts

Is not being met on an ongoing basis. The consensus among all parties interviewed was that this obligation is being met. However, a review of documentation did not identify a policy mechanism or process to govern implementation of this clause.

Further, there appears to be significantly different interpretations of the implications of this clause. See Section 5.5, Implementation of Article 24, for additional discussion on this issue.

Observations

PWGS in Ottawa developed a considerable amount of knowledge and expertise related to Article 24. Unfortunately, much of this corporate memory has been lost due to staff turnover. While there are instances of knowledgeable regional officers, there is no internal mechanism for maintaining and passing on knowledge about Article 24.

The Review Team heard a significant number of concerns from Inuit organizations about difficulties in finding someone in the Federal Government who could help with concerns about Article 24.

The GNWT does not gather information on either the implementation of its policies related to Article 24 nor the results of these policies. There is no baseline information or ongoing measurement of results, and no clear picture of what levels of Inuit content are achievable. Anecdotal information suggests that local content has increased over time.

Recommendations

NTI and the Federal Government should commence discussions at the technical level to address the unresolved points of process with respect to Article 24.

The NIP should refer those items that cannot be resolved at the working level to representatives of the Parties who are outside the implementation process (see Section 5.1.3, The Separation of Implementation and Negotiation).

The Parties should develop a common understanding of how to measure the developing nature of Inuit capabilities and define in advance the actions to be taken to adjust procurement practices.

Territorial Government Policies

24.3.4 Subject to Section 24.9.2, the Territorial Government shall maintain preferential procurement policies, procedures and approaches consistent with this Article for all Territorial Government contracts required in support of Territorial Government activities in the Nunavut Settlement Area. The Territorial Government will consult with the DIO when developing further modifications to its preferential policies, procedures and approaches in order that the provisions of this Article may be met.

Is being met on an ongoing basis. Interim procedures were put in place in 1996. In October, 1997, the GNWT Cabinet approved Contracting Procedures in the Nunavut Settlement Area for implementation. The GNWT consulted with NTI in a meaningful way during the development of these contracting procedures.

The perception that the application of these procedures varied between departments and geographic location was supported by an examination of selected departments' contracting practices.

Respond to Developing Nature

24.3.5 Procurement policies and implementing measures shall be carried out in a manner that responds to the developing nature of the Nunavut Settlement Area economy and labour force. In particular, the policies shall take into account the increased ability, over time, of Inuit firms to compete for and to successfully complete government contracts.

Is being met on an ongoing basis. The GNWT Contracting Procedures provided for the adjustment of Inuit content and Inuit employment in response to developments in the economy and labour force.

Observations

The GNWT does not gather information on either the implementation of its policies related to Article 24 nor the results of these policies. There is no baseline information or ongoing measurement of results, and no clear picture of what levels of Inuit content are achievable. Anecdotal information suggests that local content has increased over time.

Recommendations

The Parties should develop a common understanding of how to measure the developing nature of Inuit capabilities and define in advance the actions to be taken to adjust the procurement process.

Policy Objectives

24.3.6 Procurement policies and implementing measures shall reflect, to the extent possible, the following objectives:

- (a) increased participation by Inuit firms in business opportunities in the Nunavut Settlement Area economy;
- (b) improved capacity of Inuit firms to compete for government contracts; and
- (c) employment of Inuit at a representative level in the Nunavut Settlement Area work force.

Is not being met on an ongoing basis by the Federal Government. Neither procurement policies nor operating practices address the requirements of this clause.

Is being met on an ongoing basis by the Territorial Government. The GNWT's Contracting Procedures in the Nunavut Settlement Area (approved by Cabinet in 1997) and the GNWT's Purchasing Guidelines (dated 1998) meet the requirements of this clause.

Consultation with DIO on Policies and Programs

24.3.7 To support the objectives set out in Section 24.3.6 the Government of Canada and the Territorial Government shall develop and maintain policies and programs in close consultation with the DIO which are designed to achieve the following objectives:

- (a) increased access by Inuit to on-the-job training, apprenticeship, skill development upgrading, and other job related programs; and
- (b) greater opportunities for Inuit to receive training and experience to successfully create, operate and manage Northern businesses.

Is being partially met on an ongoing basis by the Federal Government. The Federal Government has a program that provides access to the type of training described above. Delivery of the program has been delegated to Inuit agency organizations. NTI has not been consulted about the type of programming offered.

Is being partially met on an ongoing basis by the Territorial Government. The Territorial Government has programs that provide access to the type of training described above. NTI has not been consulted about the type of programming offered.

Observations

Article 24 deals with procurement by Governments from the private sector, while Article 23 deals with Inuit pre-employment training and employment of Inuit by Government. Because Article 24 deals with procurement, many readers of 24.3.7 assumed this obligation relates to conditions which procuring departments were expected to establish for suppliers competing for government contracts.

NTI did not designate a DIO and so retains DIO status for this obligation. In the case of the Federal Government, the obligation is reflected in policy. Close consultation did take place, however not with NTI. In 1996, Human Resources Development Canada entered into a National Framework Agreement with the Inuit Tapirisat of Canada. Regional Bilateral Agreements were reported with Urqumiut Regional Corporation, Uannarmiut Regional Corporation and the Keewatin Regional Corporation. These agreements essentially contracted the administration of labour market support activities from a joint model (Pathways to Success) to one in which Inuit exercised greater control. The Aboriginal Human Resources Development Strategy succeeded these agreements in April, 1999, resulting in five year agreements with Inuit authorities in each of the three regions.

Recommendations

The Federal Government should modify its procurement policies to reflect Article 24.3.6 and any increase in Inuit capabilities.

The Parties should meet to confirm that current programming for access to training, developed outside of NLCA processes, is suitable.

Topic Area: Government Contracts

Assist Inuit Firms in Bidding and Contracting Procedures

24.4.1 In cooperation with the DIO, the Government of Canada and the Territorial Government shall assist Inuit firms to become familiar with their bidding and contracting procedures and encourage Inuit firms to bid for government contracts in the Nunavut Settlement Area.

Is being met on an ongoing basis. PWGS (federally) and the PWS (territorially) have each delivered procurement seminars in Iqaluit, Rankin Inlet, and Cambridge Bay. PWGS advises NTI and each RIA by fax of all upcoming procurements in the Nunavut Settlement Area. PWGS provides advice to procurement staff in identifying obligations under Article 24.

When advised by NTI of an addition to the Inuit firm list, all new Inuit firms receive an information kit on how to do business with the Federal Government and how to register themselves as a supplier.

The Territorial Government translates procurement notices into Inuktitut and advertises opportunities, while the Federal Government posts them on a web site but does not translate or advertise.

Observations

There have been no seminars outside the regional centres. Some of the seminars were criticized for not attracting enough Inuit businesses and for not having translation facilities. In another case, RIA correspondence praised a procurement seminar as very useful for the 15 or more Inuit businesses that attended.

In a number of situations, NTI and the RIA were unaware of, or did not recall, a seminar being held. This suggests that there could be better marketing of the seminars and improved lines of communication between those offering the seminars and NTI. PWGS in Edmonton indicated that they are ready and willing to give more seminars if requested to do so.

Particularly in the smaller and more remote communities, Inuit businesses do not have ready access to the Internet and may not be fluent in French or English.

Although NTI and each RIA are advised by fax of federal solicitations, it appears that faxes are not always forwarded to qualified Inuit firms. The assignment of responsibility to RIAs for forwarding opportunities to Inuit firms is informal and not documented in NTI's procedures.

See Section 5.5, Implementation of Article 24 for additional comments on accessibility to procurement opportunities.

Recommendations

None.

Opportunities in Bidding on Contracts

24.4.2 In inviting bids on government contracts in the Nunavut Settlement Area, the Government of Canada and the Territorial Government shall provide all reasonable opportunities to Inuit firms to submit competitive bids, and, in doing so, shall take, where practicable and consistent with sound procurement management, the following measures:

- (a) set the date, location, and terms and conditions for bidding so that Inuit firms may readily bid;
- (b) invite bids by commodity groupings to permit smaller and more specialized firms to bid;
- (c) permit bids for goods and services for a specified portion of a larger contract package to permit smaller and more specialized firms to bid;
- (d) design construction contracts in a way so as to increase the opportunity for smaller and more specialized firms to bid; and
- (e) avoid artificially inflated employment skills requirements not essential to the fulfillment of the contract.

Is being partially met on an ongoing basis by the Federal Government. Bidding a specified portion of a larger contract package is not permitted. Bid submission is not in Nunavut; most bids must be sent to Edmonton.

Is being met on an ongoing basis by the Territorial Government. The GNWT contracting procedures address each of the requirements in this clause.

24.4.3 Where the Government of Canada or the Territorial Government intends to invite bids, for government contracts to be performed in the Nunavut Settlement Area, it shall take all reasonable measures to inform Inuit firms of such bids, and provide Inuit firms with a fair and reasonable opportunity to submit bids.

Is being partially met on an ongoing basis by the Federal Government. Current procurement practice does not involve advertising in Inuktitut and often involves publicizing opportunities only on the Internet. These practices are barriers to providing fair and reasonable opportunities for Inuit firms to submit bids.

Is being met on an ongoing basis by the Territorial Government.

Observations

None.

Recommendations

The Federal Government should modify its contracting policies and practices to allow for bidding on specified portions of larger jobs, and for the submission of bids in Nunavut.

The Federal Government should notify the DIO when invitational bids are being requested, and the DIO should in turn notify Inuit businesses.

The Parties should determine appropriate measures for adapting the requirements of the NLCA to the emerging realities of Internet commerce.

Include Inuit Firms in Bid Soliciting Lists

24.5.1 Where the Government of Canada or the Territorial Government solicits bids for government contracts to be performed in the Nunavut Settlement Area, it shall ensure that qualified Inuit firms are included in the list of those firms solicited to bid.

Is being partially met on an ongoing basis by the Federal Government. Invitational bids are used only for contracts under \$25,000. Inuit firms are not always included on invitational lists.

Is being met on an ongoing basis by the Territorial Government. Inuit firms are routinely included in invitational bidding lists.

24.5.2 Where an Inuit firm has previously been awarded a government contract, and has successfully carried out the contract, that Inuit firm shall be included in the solicitation to bid for contracts of a similar nature.

Is not being met on an ongoing basis by the Federal Government. If an Inuit firm had successfully carried out a contract, two or more bids previously, it is not automatically on the list.

Is not being met on an ongoing basis by the Territorial Government. GNWT Public Works circulated the list of Inuit firms to procuring departments, but it does not identify all Inuit firms who had previously been successful in carrying out a contract of a similar nature.

Observations

Federal policy and practice appear to be inconsistent. Supply Manual, Policy 7.004 states: "...lists shall be used by Canada for the purpose of requesting firms in the respective settlement region to participate in solicited bidding." Despite this, the Federal Government does not routinely include Inuit firms or track which Inuit firms have been successful in carrying out contracts.

Recommendations

The Federal Government should include Inuit firms in all invitational bid lists.

The Federal and Territorial Governments should track which Inuit firms have been successful suppliers for each type of contract.

Topic Area: Government Contracts

Fair Consideration of Qualified Inuit Firms

24.5.3 In the absence of competitive bidding for government contracts, qualified Inuit firms will be given fair consideration.

Is being met on an ongoing basis by the Federal Government. There are several successful examples where Inuit firms have participated in negotiated contracts.

Is being met on an ongoing basis by the Territorial Government. There are several successful examples where Inuit firms have participated in negotiated contracts. The GNWT has a specific procedure that meets the requirements of this clause.

Observations

The Federal Government and Inuit organizations have negotiated a number of very major contracts that demonstrated meaningful compliance with this obligation. These include the Pan Arctic Inuit Logistics' (PAIL) joint venture for the operation and maintenance of the North Warning System, construction contracts with the Nunavut Construction Corporation and the clean-up of DEW Line sites.

The commitment, creativity, and vision of the federal and Inuit officials responsible for structuring such contracts is to be commended. Officials from both groups strove to carry out the spirit and intent of this obligation, even in the face of the risks inherent in implementing new approaches.

Recommendations

None.

Topic Area: Government Contracts

Establishment of Federal Bid Criteria

24.6.1 Whenever practicable, and consistent with sound procurement management, and subject to Canada's international obligations, all of the following criteria, or as many as may be appropriate with respect to any particular contract, shall be included in the bid criteria established by the Government of Canada for the awarding of its government contracts in the Nunavut Settlement Area

- (a) the existence of head offices, administrative offices or other facilities in the Nunavut Settlement Area;
- (b) the employment of Inuit labour, engagement of Inuit professional services, or use of suppliers that are Inuit or Inuit firms in carrying out the contracts; or
- (c) the undertaking of commitments, under the contract, with respect to on-the-job training or skills development for Inuit.

Is being met on an ongoing basis. Federal procedures are consistent with these requirements and are being applied appropriately.

Establishment of Territorial Bid Criteria

24.6.2 Whenever practicable and consistent with sound procurement management, and subject to Canada's international obligations, all of the following criteria, or as many as may be appropriate with respect to any particular contract, shall be included in the bid criteria established by the Territorial Government for the awarding of its government contracts in the Nunavut Settlement Area:

- (a) the proximity of head offices, administrative offices or other facilities to the area where the contract will be carried out;
- (b) the employment of Inuit labour, engagement of Inuit professional services, or use of suppliers that are Inuit or Inuit firms in carrying out the contract; or
- (c) the undertaking of commitments, under the contract, with respect to on-the-job training or skills development for Inuit.

Is being partially met on an ongoing basis. Territorial Government procedures are consistent with the requirements of this clause. However, the implementation practice is not always consistent with policy. NTI and the Territorial Government did observe that the implementation of these procedures and guidelines varied between departments and locations.

Observations

There are no monitoring and reporting mechanisms for tracking compliance, results, or triggering corrective action.

Recommendations

The Territorial Government should develop a mechanism for monitoring implementation practice and reporting on contracting, including the consistent application of policies under Article 24.

Topic Area: Government Contracts

Prepare and Maintain List of Inuit Firms

24.7.1 The DIO shall prepare and maintain a comprehensive list of Inuit firms, together with information on the goods and services which they would be in a position to furnish in relation to government contracts. This list shall be considered by the Government of Canada and the Territorial Government in meeting their obligations under this Article.

Is being partially met on an ongoing basis. There have been lapses in sending the list of Inuit firms to the appropriate government offices. Responsibility for its distribution is unclear. Most government representatives are aware of the list, however, they do not always have a complete, up-to-date list, and do not always use it as required.

Observations

The preparation and distribution of the list was irregular and casual during much of the review period.

File reviews revealed that the last significant update received from NTI by PWGS officials in Ottawa was September 11, 1996 with a very modest supplement on June 4, 1997. By early 1999, NTI had improved upon this situation and was forwarding a consolidated list.

It is NTI's responsibility to transmit the list to the Federal and Territorial Governments. There is no periodic monitoring to ensure the list is distributed as the Parties had intended.

Receipt of the list of Inuit firms triggers the sending of an information package on how to register and do business with the Federal Government. It also provides regional and headquarters procurement staff with a list of Inuit firms to consider in procurements. The consequences of not having an accurate, complete, and up-to-date list can therefore be quite severe.

It is noted that the list seen at PWGS looked different from the post-review lists provided by NTI and the Territorial Government. Regional federal procurement officers did confirm that they used a list, but only in procurements under \$25,000.

Recommendations

The Parties should re-examine and document procedures for the distribution of the list of Inuit firms, both between and within the Parties.

Topic Area: Government Contracts

Monitoring and Evaluation of the Implementation of this Article

24.8.1 The Government of Canada and the Territorial Government, in cooperation with the DIO, shall take the necessary measures to monitor and periodically evaluate the implementation of this Article.

Is not being met on an ongoing basis. Neither implementation practices nor the implementation results of Article 24 are being measured or evaluated. This applies to both the Federal and Territorial Governments.

Observations

There is no baseline information to evaluate against, no process for measuring, and no current measurement of results.

To be clear, there are a number of successes which have occurred with the implementation of this Article, together with a good number of shortfalls. Quantified, objective measurements would enable a much more focused and productive identification and replication of best practices, and would suggest mechanisms to address any shortfalls.

See Section 5.5, Implementation of Article 24, for additional discussion on monitoring and reporting.

Recommendations

The Parties should develop measures to monitor both implementation practice and results, and begin a program to evaluate the success of Article 24.

Review of Effects of Implementation of Article 24

24.9.3 The Government of Canada, the Territorial Government and the DIO shall conduct a review of the effect of this Article within 20 years of its implementation. If the DIO and the Government of Canada or the Territorial Government, as the case may be, agree after the review that the objectives of this Article have been met, the obligations under this Article of the Government of Canada or the Territorial Government, as the case may be, shall cease within one year of the completion of the review. If the obligations of the Government of Canada or the Territorial Government under this Article remain in effect after the initial review, the Parties shall review the requirement to continue such provisions every five years or at such other times as they may agree.

No occasion to implement. The first review is required no later than 2013, and the Parties have not yet decided to implement this clause.

Observations

The Parties need to prepare now if this review is to be performed properly. An appropriate baseline of information is required and a track record of annual results will be needed.

The time-limited nature of Article 24 is not well understood in the business environment.

Recommendations

The Parties should develop measures to monitor both implementation practice and results, and begin a program to evaluate the success of Article 24.

The Parties should make the Nunavut business community aware of the time-limited nature of Article 24.

Inuit Right to Royalty

25.1.1 Inuit shall have the right, in each and every calendar year, to be paid an amount equal to:

- (a) fifty percent (50%) of the first two million dollars (\$2,000,000) of resource royalty received by Government in that year; and
- (b) 5% of any additional resource royalty received by Government in that year.

Is being met on an ongoing basis. Royalty payments are calculated on this basis.

Payment to the Nunavut Trust

25.2.1 Government shall pay to the Nunavut Trust the amounts payable under Section 25.1.1

25.2.2 Amounts payable by Government pursuant to this Article shall be calculated on the basis of amounts due to and received by Government in respect of resources produced after the date of ratification of the Agreement.

Is being met on an ongoing basis.

Timing of Payments

25.2.3 Payments remitted to the Nunavut Trust shall be in quarterly payments on an as received basis.

Is not being met on an ongoing basis. Royalty payments are being received late.

Verification of Payments

25.2.4 Government shall annually provide the Nunavut Trust with a statement indicating the basis on which royalties were calculated for the preceding year.

25.2.5 On the request of the Nunavut Trust, Government shall request the Auditor-General to verify the accuracy of the information in the annual statements.

Is not being met on an ongoing basis. The statements received by the Trust do not contain the detail required to verify the accurate calculation of resource royalty payments.

Trust Management has reviewed the matter with federal officials and have received explanations for the lack of information, essentially that such a statement would give away confidential information on resource companies. Trust management has a productive working relationship with the appropriate federal officials, and this has provided a measure of comfort about the accuracy of the calculations. This may be an appropriate approach as a short-term work-around, however, with no detailed statements available in the last five years, the Auditor General should now be asked to verify the calculations.

Recommendations

If detailed resource royalty calculations are not provided to the Nunavut Trust, Trust management should request the Auditor General verify the accuracy of past calculations.

Trust management should arrange for the periodic review of the Government calculations by the Auditor General.

The Federal Government should make resource royalty payments in the same quarter as received.

Consultation

25.3.1 Government shall consult with the DIO on any proposal specifically to alter by legislation the resource royalty payable to Government. Where Government consults outside of Government on any proposed changes to the fiscal regime which will change the resource royalty regime, it shall also consult with a DIO.

Has been met. NTI has had a reasonable opportunity to comment on proposed changes, and has not been disadvantaged. The Government did consult with industry first. However, NTI has had an effective opportunity to address its concerns before changes were set in stone. It is reasonable for the Government to have a degree of flexibility in how it consults, including the sequencing of consultation, as long as NTI is provided with a genuine opportunity for consultation and input during the overall process of developing a set of changes.

Observations

In some cases where NTI is the primary stakeholder in a matter requiring consultation (e.g., legislation for Nunavut), it makes sense to consult closely with NTI from the outset. In other cases, such as royalty regimes, other stakeholders have interests which are at least as great as those of NTI.

In such cases, there may well be reasons for consulting with different stakeholders at different times during the development of any changes. The Government's managers are charged with the responsibility of managing the change process. As long as NTI gets an effective opportunity for input, the managers should have the authority to make decisions about the change process.

At the same time, it is not appropriate for NTI to find out about a change process through the grapevine. This is not a good way to manage the working relationship between the Parties. It would make sense to notify NTI that changes are being contemplated, and indicate the most likely time-frame for consultation with NTI.

Recommendations

Once the Federal Government has decided that changes are likely, NTI should be notified in a timely manner.

Negotiations in Good Faith

26.4.1 At least 180 days prior to the proposed start-up date of any Major Development Project, the DIO and the proponent, unless they otherwise agree, will commence negotiations, in good faith, for the purpose of concluding an IIBA.

Is being met on an ongoing basis. One Major Development Project, the ULU Project, was proposed during the period. The DIO was the KitlIA. Nine months of negotiations resulted in an agreement dated September 16, 1996. Due to economic considerations, the project has yet to start up.

Appointment of Arbitrator

26.6.2 In the event that a proponent or the DIO consider that the other party is not negotiating in good faith during the initial 60 days negotiation period referred to in Section 26.6.1, that party may immediately apply to the Minister for the appointment of an arbitrator. The arbitrator shall, within seven days of appointment, determine the validity of the allegation of bad faith. If the arbitrator upholds the allegation, the arbitrator shall proceed immediately in accordance with Section 26.6.4.

26.6.3 Within 15 days of an application to the Minister for the appointment of an arbitrator, an arbitrator shall be appointed with the approval of the parties negotiating the IIBA. If the parties cannot agree on the appointment of an arbitrator, the arbitrator shall be appointed by the Minister from a standing list of arbitrators which has been approved jointly by the DIO and by those industry organizations determined by Government to be relevant

No occasion to implement.

Coming into Effect

26.8.1 An IIBA shall take effect 30 days after its receipt by the Minister unless the Minister has determined within that time that the IIBA does not conform to the provisions of Section 26.3.2 or the principles of Subsections 26.3.3(a) to (e), or that, with respect to an IIBA pursuant to Parts 5 or 6, an arbitrator has exceeded the arbitrator's jurisdiction.

Is being met on an ongoing basis. The ULU IIBA was submitted to the Minister in September, 1996. The Minister did not object.

26.8.2 If the Minister makes a determination pursuant to Section 26.8.1, the Minister shall provide written reasons and may provide direction for achieving conformity or remedying the excess of jurisdiction.

No occasion to implement.

Observations

None.

Recommendations

None.

Early Project Start-up

26.11.3 If, once negotiations have begun on an IIBA, the proponent finds it necessary for the project to start sooner than the projected start-up date, the Minister may, if the project has received approval from the appropriate agencies, authorize the project to commence:

- (a) if the parties agree; or
- (b) if the delay would jeopardize the project.

Where the Minister proposes to exercise this authority, the Minister shall consult with the parties and, where one has been appointed, the arbitrator

No occasion to implement.

Observations

The implementation of Article 26 has been successful. Of the six obligations in the Implementation Contract, two have been met on an ongoing basis, and there has been no occasion to implement the balance. For the only Major Development Project IIBA negotiation to date, the process worked in a timely, efficient, and cost-effective manner to the satisfaction of all parties.

As the first IIBA, the ULU Project IIBA serves as a good example. It is thorough, addressing a wide range of economic benefits, while providing for renegotiation after environment assessment, should it be necessary. If there are lessons to be drawn, they are from comparing the smooth and prompt negotiation of the ULU Project IIBA with the lengthy, frustrating, and costly process of negotiating park IIBAs.

Several other Major Development Projects are in their late exploration/early development stages. Many objects of an IIBA occur before start-up.

Recommendations

NTI and RIAs should monitor potential projects to ensure that a DIO is in place, with sufficient time, to properly prepare for the negotiation of an IIBA.

NTI, DIOs, and Government should apply the lessons learned from negotiating the ULU IIBA to future IIBA negotiation processes.

Establish Process to Open Lands for Petroleum Exploration

27.1.1 Prior to opening any lands in the Nunavut Settlement Area for petroleum exploration, Government shall notify the DIO and provide an opportunity for it to present and to discuss its views with Government regarding the terms and conditions to be attached to such rights.

Is being met on an ongoing basis. Written notification was provided to the DIO on June 23, 1998 prior to opening any lands. In addition, a discussion paper in Inuktitut accompanied it. Commencing a year prior to notification on June 25, 1997, there was a series of consultations with the DIO in Cambridge Bay, Iqaluit, and Ottawa. Further information sessions were held in the effected communities including Resolute Bay and Grise Fiord, and translated follow-up materials were provided. The activities carried out in meeting this obligation exceeded the requirements.

Exercise of Petroleum Rights

27.1.2 Prior to the initial exercise of rights in respect of exploration, development or production of petroleum on Crown lands in the Nunavut Settlement Area, and in order to prepare a benefits plan for the approval of the appropriate regulatory authority, the proponent shall consult the DIO, and Government shall consult the DIO, in respect to those matters listed in Schedule 27-1.

No occasion to implement. During the review period, no rights were granted to or exercised by a proponent. Prior to granting rights, there must first be a call for nominations and then a call for bids. The Government is preparing to call for nominations. In preparation for this requirement, there are ongoing discussions between the DIO and Government. Subsequent to the end of the review period, considerable progress has been made in expanding the draft benefits plan.

Observations

Some of the reasons for success appear to be:

- The representatives of DIO and the Federal Government maintain an open and active dialogue with each other;
- There were proactive consultations and meetings with the DIO and affected communities;
- There had been little turnover of any of the representatives since ratification of the NLCA;
- The representatives who were assigned responsibility for implementing the Article are the senior-operating managers with direct responsibility for the area;
- Each representative was aware of the NLCA and their implementation obligations;
- Each of the representatives shared common professional values and technical understandings;
- The focus was on pragmatic implementation of the Article by technical professionals; and,
- There was a sharing of knowledge between the Parties.

Recommendations

None.

Nunavut Tungavik Representatives

28.1.1 The Territorial Government shall include representatives of the Tungavik in the Territorial Government team to develop and to implement northern energy and minerals accords with the Government.

Has been partially met. The Territorial Government consulted with NTI while developing the draft accords which resulted in draft accords dated January 11, 1995. NTI was generally satisfied with the proposed accords. Negotiation of the accords was suspended June 28, 1995 for reasons relating to the positions of other aboriginal groups in the NWT. NTI believed that a bilateral process would be more successful. However, there were no further discussions, and the accords were never signed or implemented.

Observations

The contents of the draft accords were generally acceptable to NTI and the Territorial Government. These drafts represent the basis for NTI and the Government of Nunavut to revitalize the implementation of Article 28.

Recommendations

NTI and Government should commit to concluding the accords within a set schedule.

Establishment of Trust

- 31.1.1 Prior to the date of ratification of the Agreement, the Tungavik Federation of Nunavut shall cause to be established by trust deed a Nunavut Trust to receive the capital transfer payments referred to in Article 29 and any amounts payable to it under Article 25, and the Nunavut Trust may invest the same and distribute the income therefrom to the beneficiaries of the Trust for the general benefit of Inuit.
- 31.1.3 The Nunavut Trust shall be subject to control by its trustees, who shall be selected by Regional Inuit Organizations or through some other method that ensures conformity with Section 39.1.6.
- 31.1.4 The trust deed establishing the Nunavut Trust shall provide that amendment of the trust deed must involve ratification by Inuit through an appropriately designed voting procedure.
- 31.1.6 The Nunavut Trust shall provide for the protection and enhancement of settlement assets based on sound management practices.

Has been met. The Trust Deed is compliant. With respect to 'sound management', the Trust has objects that include 'investing as a prudent man would', professional investment managers, independently evaluated performance, a publicly stated rationale for the current investment approach, and an investment policy with guidelines.

Access to Information

- 31.2.1 The following information shall be freely available to all Inuit:
- (a) the trust deed establishing and governing the Nunavut Trust;
 - (b) the constituting documents of the principal beneficiary and any other beneficiaries of the Trust; and
 - (c) annual reports detailing the activities and finances of the Trust, its principal beneficiary, and any other beneficiaries

Is being partially met on an ongoing basis. The Trust Deed and annual reports appear to be generally available. Constituting documents, although rarely asked for, were not readily available when requested.

Observations

The Review Team is not qualified to comment on and did not comment on the effectiveness of the investment practices. The examination in this report is limited to the existence of prudent management tools. The effectiveness of investment practices is left to experts in this field.

The Review Team noted dissatisfaction within Inuit organizations regarding the accessibility of information generally, despite the Trust Deed stating "... all books and records ... shall at all times be open to inspection ..." (Deed Article 10.5).

Recommendations

The Nunavut Trust should be more open and accessible with its information and should take a stronger role in communicating information on the Trust, its activities, and its beneficiaries.

The Nunavut Trust should make arrangements with NTI's communications section to put the information required in Article 31.2.1 of the Agreement on NTI's web site.

Topic Area: Nunavut Social Development Council

Government Obligations

- 32.2.1 Government obligations under Section 32.1.1 shall be fulfilled by Government:
- (a) providing Inuit with an opportunity to participate in the development of social and cultural policies, and in the design of social and cultural programs and services, including their method of delivery, in the Nunavut Settlement Area; and
 - (b) endeavouring to reflect Inuit goals and objectives where it puts in place such social and cultural policies, programs and services in the Nunavut Settlement Area.

Has sometimes been met in the past, but is not currently being met. DIAND, as Canada's representative, has not implemented mechanisms to advise federal government departments of the provisions of 32.2.1. Implementation of this obligation has not been referenced in DIAND tracking and monitoring systems. Senior GNWT officials involved in social policy issues met twice with the NSDC in 1997. Such meetings did not occur again during the review period. Individual departments have provided opportunities for Inuit to participate in the development of departmental policies and plans. The activities identified in the Implementation Contract do not specify a particular role for the NSDC.

Establishment of the Council

- 32.3.1 A Nunavut Social Development Council (Council) shall be established to promote the principles and objectives in Sections 32.1.1 and 32.2.1, notwithstanding that there may be other bodies established in the Agreement or outside it which also promote these principles and objectives.

Has been met.

Annual Report

- 32.3.4 The Council shall prepare and submit an annual report on the state of Inuit culture and society in the Nunavut Settlement Area to the Leader of the Territorial Government for tabling in the Legislative Assembly, as well as to the Minister of Indian Affairs and Northern Development for tabling in the House of Commons.

Has been met. The annual report of the Panel, which is tabled in the Legislative Assembly and Parliament, contains a report from the NSDC.

Observations

NTI takes the position that the Government of Nunavut and the NSDC should develop a strong, cooperative, and consultative relationship in the pursuit of social policy reform in Nunavut. NTI further states that such a relationship should emphasize openness to maximize participation by all interested organizations and individuals, and should foster a spirit of informed and creative public debate on fundamental social policy problems and options. The activities described in the Implementation Contract provide little operational direction about how Inuit will be provided with an opportunity to participate in policy development, and how Government will endeavour to reflect Inuit goals and objectives in policies and program delivery.

Recommendations

The NSDC should work with NTI to identify its role and responsibilities in relation to other interested Inuit organizations, in order to assist Government with the implementation of their obligations under 32.2.1.

Topic Area: Archaeology

Inuit participation – Policy and legislation development

- 33.3.1 The Trust shall be invited to participate in developing government policy and legislation on archaeology in the Nunavut Settlement Area.

Is being met on an ongoing basis. The principal responsibility for archeological legislation in Canada is territorial and provincial. The Inuit Heritage Trust (IHT) was invited to participate in developing government policy and legislation, including consultation and review of drafts. However, the proposed legislation was put on hold until after division of the NWT.

Establishment of the Inuit Heritage Trust

- 33.4.1 The Tungavik Federation of Nunavut or its successor, shall cause to be established by trust deed an Inuit Heritage Trust ("Trust") within one year of the date of ratification of the Agreement.
- 33.4.2 The Trust shall be subject to control by its trustees who shall be nominated by the DIO. The trustees collectively shall have an appropriate balance of cultural awareness and technical expertise
- 33.4.4 The terms of the Trust shall ensure the safekeeping and safe use of property entrusted to it.

Has been met. The Trust Deed was signed on April 12, 1994. Article III of the Trust Deed meets the obligations of control by, and nominations of, trustees. Article IV provides for safekeeping and safe use.

- 33.4.3 The Trust shall assume increasing responsibilities for supporting, encouraging, and facilitating the conservation, maintenance, restoration and display of archaeological sites and specimens in the Nunavut Settlement Area, in addition to any other functions set out in the Agreement.

Is being partially met on an ongoing basis. Without additional physical facilities and professional resources, most of the progress which is possible to implement this obligation, has been made.

Access to information

- 33.4.5 The Designated Agency shall allow the Trust access to information in its possession regarding archaeological work in the Nunavut Settlement Area, subject to reasonable restrictions on access intended to safeguard the confidentiality of sensitive information.

Is being met on an ongoing basis. Access to information by both the Territorial and Federal Governments has been very good.

Permit system

- 33.5.1 The legislation and policy referred to in Part 3 shall establish a permit system with respect to the protection, excavation and restoration, recording and reporting of archaeological sites. Appropriate sanctions against unauthorized disturbance of archaeological sites and specimens and unauthorized dealing in archaeological specimens shall be contained in appropriate legislation.

Is being partially met on an ongoing basis. Through cooperation, the working parties strove to incorporate the permitting system in this obligation by amending their operating practices. All the working parties agree that the current legislative sanctions against unauthorized disturbance of archaeological sites and specimens, and unauthorized dealing in archaeological specimens are too weak.

33.5.2 The legislation and policy referred to in Part 3 shall provide that a permit holder shall not survey, investigate, excavate or alter an archaeological site without the consent of the title holder to the land. Such consent shall not be unreasonably withheld.

Has not been met. The legislation referred to in Part 3 of this Article has not been passed. Through cooperation, the working parties strove to incorporate the intent of the obligation in the permitting system. It was amended to require that the consent of the titleholder to the land be obtained before permits are issued. The working parties note there are already existing bodies and processes which give permission to access the land. When the legislation in Part 3 is developed, the parties should take this into account.

Processing of permit applications for archaeological activity

33.5.3 Upon receipt of any application for a permit for archaeological activity, including investigation of archaeological sites, or the removal of archaeological specimens, the Designated Agency shall, except in cases of emergency, forward a copy of such application forthwith to the Trust.

Is being met on an ongoing basis. There is a good system in place for forwarding applications to the Trust. Regarding permitting obligations 33.5.3 – 33.5.8, the NLCA is unclear as to whether the obligations are required to be contained in the legislation and policy referred to in Part 3 or not. It would seem logical that they should be. However, unlike permitting obligations 33.5.1 and 33.5.2, they do not contain a specific reference to legislation or policy. Clear instructions should be given to the drafters as to the parties' wishes.

33.5.4 Upon receipt of the copy, the Trust shall have a reasonable number of calendar days, as determined by the Designated Agency in consultation with the Trust, to object to the application in writing.

Is being met on an ongoing basis. Rather than a specific number of days, the parties instituted a cyclical system where the application is received by the end of February and considered at the Trust's April Board for that summer's work. This takes approximately 45 days, which the parties see as reasonable.

33.5.5 If the Designated Agency is in receipt of such written objections within the specified number of calendar days, it shall:

- (a) withhold the issuance of any permit;
- (b) investigate the objections; and
- (c) provide the Trust with a copy of the report prepared on the basis of the investigation.

Is being met on an ongoing basis. Out of approximately 80 applications, IHT advised the Designated Agency of two written objections. In one case the Designated Agency accepted the objection and rejected the permit; in the other it issued the permit.

33.5.6 Where the objections referred to in Section 33.5.5 are reasonably founded on:

- (a) inadequate efforts to secure Inuit participation and benefits or inadequate performance of commitments to provide such participation and benefits under permits issued at an earlier date, or
- (b) disturbance of a site of Inuit religious or spiritual significance, as such significance is defined by the Trust in consultation with the Designated Agency, the Designated Agency shall reject the application for the permit.

Is being met on an ongoing basis. When a permit holder failed to adequately secure Inuit Participation, as required in the permit, the permit was cancelled.

Conditions on granting permits for archaeological activity

33.5.7 The Designated Agency shall, upon reasonable request by the Trust, attach as a condition to the grant of a permit, a requirement that upon completion of each season's field work, the permit holder shall, to the extent practicable:

- (a) attend at a location identified by the Trust, in the community closest to the site, to explain and discuss the work carried out; and,
- (b) provide an opportunity for residents of the community to examine any specimen removed from the site.

Is being met on an ongoing basis. The Designated Agency attaches these conditions when requested by the Trust.

Processing of permit applications for archaeological activity

33.5.8 Notwithstanding Section 33.5.6, where the application before the Designated Agency is associated with a proposed land use requiring a land use permit, the Designated Agency may, instead of rejecting the application, issue a permit with terms and conditions that adequately deal with the reasonably founded objections.

No occasion to implement.

Permit system

33.5.9 The legislation and policy referred to in Part 3 shall provide that every permit holder shall submit a report to the Designated Agency and the Trust. Upon reasonable request, the Agency shall provide the Trust with an Inuktitut summary of the report.

Has not been met. The legislation referred to in Part 3 has not been passed. Through cooperation, the working parties have striven to meet the spirit and intent of this obligation. Every permit holder submits a report. There have been no requests for a translation. However, the Territorial Designated Agency (Prince of Wales Northern Heritage Centre) provides an annual summary in Inuktitut of the work that has been done.

Inuktitut translations of agency's publications

33.5.10 The Designated Agency shall make available Inuktitut translations of its publications that are aimed at informing the Canadian public about archaeology in the Nunavut Settlement Area.

Is being met on an ongoing basis. The Territorial Designated Agency (Prince of Wales Northern Heritage Centre) translates an annual report of activities in the NSA and assists the IHT in translating materials into Inuktitut. Canadian Heritage makes available Inuktitut translations of some relevant publications.

Employment and Contracting

- 33.6.1 Where any agency of the Government intends to contract for carrying out of archaeological work in the Nunavut Settlement Area, the agency shall:
- (a) give preferential treatment to qualified Inuit contractors where the agency proposes to tender such contract; and
 - (b) ensure that all contractors give preferential treatment to qualified Inuit.

Is being met on an ongoing basis. (There has been no occasion for the Federal Government to implement this obligation.) There are very few qualified Inuit archeologists. Qualified archeologists must do some of the work. To overcome this barrier, the Prince of Wales Heritage Centre changed the system to split work so that experience could count for qualifications in some cases. Most of the work done for the Prince of Wales Heritage Centre was contracted to the IHT. In one case a GNWT department did not comply with this obligation. However, this was an emergency with the possibility of the site being lost. An archeologist who happened to be in the area was contracted and did hire Inuit workers.

Minimum Requirements of Employment and Contracting

- 33.6.2 Any archaeological programs in the Nunavut Settlement Area that are administered by Government shall conform, at a minimum, to the employment and training provisions set out in Article 23.

No occasion to implement. There were no programs with government employees administered by Governments in the NSA during the review period. Very little archeology is done by government employees; rather it is done by contractors or independent researchers who obtain permits under 33.6.1.

Title in archaeological Specimens

- 33.7.4 The Designated Agency and the Trust must jointly consent, in writing, prior to any long-term alienation of any archaeological specimen found in the Nunavut Settlement Area.

No occasion to implement. However, there are two developing issues evolving subsequent to the review period. Firstly, collections out on short-term loan automatically become long-term after three years and prior written consent will not have been obtained, although tracking of these loans will continue. Secondly, Government and the IHT jointly own all archaeological specimens that are found within the NSA per 33.7.1 of the NLCA. However, there is a difference of opinion between the Canadian Museum of Civilization (CMC) and IHT. Does the joint ownership refer to the entire collection originating from Nunavut or just the collection since signing of the Agreement? It is understood the parties are discussing resolution of the question.

- 33.7.5 Where the Designated Agency and the Trust cannot reach an agreement on a proposal for a long-term alienation, as outlined in Section 33.7.4, the matter shall be referred for resolution by arbitration under Article 38 by the Designated Agency or the Trust. In arriving at a decision, an arbitration panel shall take into account the overall intent of the Agreement, the provisions of this Article, and any other relevant consideration.

No occasion to implement.

- 33.7.6 The Trust shall determine the disposition of all specimens found on Inuit Owned Lands.

- 33.7.7 Designated Agencies shall determine the disposition of all specimens found in the Nunavut Settlement Area other than on Inuit Owned Lands subject to the rights of the Trust to acquire possession as set out in this Article.

Is being met on an ongoing basis.

Possession of Specimens

- 33.8.1 The Designated Agency shall endeavour at all times to dispose of a maximum number of specimens to institutions in the Nunavut Settlement Area such as the Trust.

Has sometimes been met in the past, but is not currently being met. The obligation cannot be met due to limited facilities to provide for the preservation, safekeeping, and access to archeological material in the NSA. The few requests for material received to date from Nunatta Sunakkutaagit and the Baker Lake Inuit Heritage Centre have been met.

- 33.8.2 The Trust may request possession of any specimens found within the Nunavut Settlement Area or from any federal or territorial government agency, including the Canadian Museum of Civilization, and any territorial archaeological agency. Such requests shall not be refused by the agency unless:
- (a) the Trust is unable to maintain the specimen without risk;
 - (b) the Trust is unable to provide access to the specimen commensurate with scientific or public interests;
 - (c) the agency is unable to give up possession because of some term or condition of its original acquisition from a non-governmental source;
 - (d) the Canadian Museum of Civilization, the National Archives of Canada, the Canadian Parks Service or a territorial government agency currently requires the specimen
 - (i) for its own active display or research, or
 - (ii) on account of the unique characteristics of the specimen;
 - (e) the condition of the specimen prohibits its movement; or the specimen has previously been made available to, and is in the possession of, a party other than a federal or territorial government agency.

- 33.8.3 Where the agency referred to in Section 33.8.2 complies with a request by the Trust, the agency may attach any terms and conditions consistent with professional and institutional practice, including terms or conditions dealing with duration or termination of possession.

- 33.8.4 Where the Trust requests possession of a specimen mentioned in Section 33.8.2, but such specimen is currently on loan to a party other than a federal or territorial government agency, the Trust shall have priority over all other persons to obtain possession of the said specimen, subject to compliance with any conditions outlined in Sections 33.8.2 and 33.8.3.

No occasion to implement. Because the Trust has no place for the safe presentation and access to archeological material in the NSA, the Trust has never requested a loan.

Place Names

- 33.9.1 The Inuit of the Nunavut Settlement Area have traditionally referred to various locations, geographic features and landmarks by the traditional Inuit place names. The official names of such places shall be reviewed by the Trust and may be changed to traditional Inuit place names in accordance with the process described in Section 33.9.2

33.9.2 The process for review of place names within the Nunavut Settlement Area shall be comparable to that set out in the Territorial Government Directive 17.03 on Geographical And Community Names, dated May 28, 1990, subject to the requirement that the Trust be consulted on any place name decisions.

Has not always been met in the past, but is currently being met. Initially, the Territorial Government sought a review of place names, but from someone other than the Trust. This was an unintentional oversight. The procedure was reviewed and is now being followed in accordance with the obligations.

Observations

Of the 27 obligations in the Implementation Contract for Article 33, 13 obligations have been met or are being met on an ongoing basis. Of the remaining 14 obligations, one has been partially met, four have not been met, and there has been no occasion to implement seven.

The organizations directly responsible for its implementation, the IHT, Prince of Wales Heritage Centre, and Canadian Museum of Civilization have been innovative in finding new ways for implementing the Article despite legislative inaction and financial obstacles.

The greatest obstacles to the successful implementation are:

- the failure to pass the legislation required by Part 3 of the Article;
- the lack of professional resources and physical facilities for safekeeping, conservation, maintenance, restoration, and display of archaeological sites and specimens in NSA; and,
- a lack of trained Inuit archaeologists.

Significant progress in implementation has been made to date despite these obstacles. However, little additional progress towards implementing the Trust's obligation of, "assuming increasing responsibilities for supporting, encouraging, and facilitating the conservation, maintenance, restoration and display of archaeological sites and specimens in the Nunavut Settlement Area" can be made until these obstacles are addressed in a substantive manner. Funding for physical facilities has not been contemplated.

The working parties did not see the Panel as a source of help. The role of the Panel is discussed in more detail in Section 5.2.

The working parties deserve credit for seeking alternatives to legislation to carry out the spirit of the obligations in their day-to-day activities. As a process, the implementation of this Article and Article 34 have proceeded smoothly. It is worth observing why this may be the case:

- The representatives of IHT, the Federal Government (the Canadian Museum of Civilization) and the Territorial Government (Prince of Wales Northern Heritage Centre) all maintain an open and active dialogue with each other;
- There had been no turnover of any of the representatives since ratification of the NLCA;
- In each case, the representative assigned responsibility for implementing the Article was the senior-operating manager with direct responsibility for the area;
- Each representative was aware of the NLCA and their implementation obligations;
- At no point during the five years was any matter referred to legal counsel or the political level;
- The focus was on pragmatic implementation of the Article by technical professionals; and,
- There was a sharing of knowledge between the parties.

Recommendations

Government should consult with the IHT and pass the legislation required by Part 3 of the Article. Clear instructions should be given to the drafters as to the parties' wishes.

IHT consulting with stakeholders should develop and implement a plan for the funding, design, construction, staffing, and operation of a facility suitable to provide safekeeping, conservation, maintenance, restoration, and display of archaeological sites and specimens.

NITC, working with the IHT, should develop, fund, and implement a plan which will assist Inuit to fill the professional and technical roles associated with the archaeological obligations.

Topic Area: Ethnographic Objects and Archival Materials

Employment and Training

- 34.2.1 Any ethnological programs in the Nunavut Settlement Area that are administered by Government shall conform, at a minimum, to the employment and training provisions set out in Article 23.

No occasion to implement. There have been no programs with government employees administered by Governments in the NSA since ratification of the NLCA.

Lending of Ethnographic Objects

- 34.3.1 The Canadian Museum of Civilization and any territorial government ethnographic agency shall endeavour at all times to lend a maximum number of ethnographic objects to institutions in the Nunavut Settlement Area such as the Trust.

Has sometimes been met in the past, but is not currently being met. The obligation cannot be met due to limited safekeeping facilities in the NSA. The few requests for material received to date from Nunatta Sunakkutaagit and to the Baker Lake Inuit Heritage Centre have been met.

- 34.3.2 Where the Trust request the loan of any ethnographic objects originating in or relating to the Nunavut Settlement Area, and in the possession of a federal or territorial government ethnographic agency, including the Canadian Museum of Civilization, the National Archives of Canada and the Canadian Parks Service or territorial government agency, such request shall not be refused unless:

- (a) the Trust is unable to maintain the object without risk of damage or destruction, including provision for climate control and security;
- (b) the Trust is unable to provide access to the object commensurate with scientific or public interest;
- (c) the agency is unable to lend the object because of a term or condition of its original acquisition from a non-governmental source;
- (d) the Canadian Museum of Civilization, the National Archives of Canada, the Canadian Parks Service or a territorial governmental agency requires the object;
 - (i) for its own active display or research, or
 - (ii) on account of the unique characteristics of the object;
- (e) the condition of the object prohibits its movement; or
- (f) the object has been previously lent to, and is in the possession of, a party other than a federal or territorial government agency.

- 34.3.3 Where the agency referred to in Section 34.3.2 complies with a request by the Trust, the agency may attach any terms and conditions consistent with professional and institutional practice, including terms or conditions dealing with duration or termination of the loan

- 34.3.4 Where the Trust requests the loan of an object mentioned in Section 34.3.2, but such object is currently on loan to a party other than a federal or territorial government agency, the Trust shall have priority over all other persons to obtain a loan of the said object, subject to compliance with any conditions outlined in Sections 34.3.2 and 34.3.3.

No occasion to implement. Because the Trust has no place for the safe presentation and access to ethnographic material in the NSA, it has never requested a loan.

Loan of Archival Materials

- 34.4.1 Where the Trust requests the loan of original archival materials relating to the Nunavut Settlement Area for display or exhibit, or copies of archival material for research or study purposes, from the National Archives of Canada, the Canadian Museum of Civilization or any territorial government archival agency, such request shall be treated on at least as favourable a basis as similar requests from any other institutions

No occasion to implement. No loans of archival material have been requested by the Trust as they have no place for the safekeeping, presentation, and access to the material in the NSA.

Observations

The implementation of this Article has been a failure. Of the six obligations in the Implementation Contract for Article 34, none have been met.

The obstacle to the successful achievement of the spirit and intent of this Article is the lack of physical facilities in the NSA to provide for the preservation, safekeeping and accessibility of ethnographic objects and archival materials. With no place for the material, it is impossible to implement this Article. No funding has been identified.

The working parties deserve credit for seeking ways to carry out the spirit and intent of the obligations in their day-to-day activities.

Recommendations

IHT consulting with stakeholders should develop and implement a plan for the funding, design, construction, staffing, and operation of a facility suitable to provide safekeeping, conservation, maintenance, restoration, and display of ethnographic and archival material.

Establishment of Inuit Enrolment List

- 35.2.1 A DIO shall establish and maintain a list of Inuit (Inuit Enrolment List), and enroll thereon the names of all persons who are entitled to be enrolled in accordance with this Article.
- 35.8.2 The DIO shall be responsible for co-ordinating the enrolment procedures set out in these provisions and permanently maintaining a complete and up-to-date Inuit Enrolment List.

Is being met on an ongoing basis. The NTI enrollment office created an Interim Enrollment List dated July 31, 1994 and has likely maintained the list effectively since that time. While the enrollment list appears to be properly maintained, there is a significant lack of written procedures and controls surrounding the enrollment process. This can lead to an increased risk that problems will go undetected and is a barrier to verification. Additional cross-training is also needed.

Coordination and Maintenance of the Lists

- 35.3.4 A person who is entitled may transfer into the Agreement so long as that person gives up, for the duration of such transfer, the ability to benefit from or participate in a Canadian aboriginal land claims agreement out of which that person is transferring.
- The DIO shall determine the date upon which this provision comes into force with respect to beneficiaries or participants of any other Canadian aboriginal land claims agreements.
- 35.3.6 Any person enrolled under the Agreement, may from time to time, decide to discontinue enrolment and, upon that person's written directions to that effect, that person's name shall be removed from the Inuit Enrolment List.

Has been met. Transfers do take place, and there are processes in place to identify people belonging to other claims (i.e., Makavik, Inuvialuit). The processes that are in place mean that it is likely that duplicate enrollments are avoided, however, additional controls and improved documentation are needed to ensure compliance on an ongoing basis.

Publication of Inuit Enrolment List

- 35.7.1 Each Enrolment Committee, interim or otherwise, shall make available to the public without charge a list containing the names of persons enrolled on the Inuit Enrolment List.
- 35.7.2 The DIO shall annually provide a free copy of the Inuit Enrolment List to the Government of Canada and to the Territorial Government, and shall make the Inuit Enrolment List available to a member of the public on request.

Has not always been met in the past, but is currently being met. Copies are available on a reference basis. A process exists, but appears to be undocumented. The required copies were not distributed to the Federal and Territorial Governments in 1996 and 1997 due to an oversight. This problem has been corrected.

Observations

The enrollment process appears to function as required, however, there are large deficiencies in documentation that prevent a complete determination. Documentation, organization, and controls all need to be improved in order to ensure that obligations are met in the future. Records and files require a substantial improvement in completeness and organization.

Recommendations

The Enrollment Coordinator should:

- Complete the new database to improve reporting and assist with control processes;
- Institute better control over additions, deletions, and transfers; and,
- Review and improve the completeness of enrollment records.

Establishment of Community Enrolment Committees

- 35.4.1 A Community Enrolment Committee (Enrolment Committee) shall be established in each community in the Nunavut Settlement Area.
- 35.4.3 An interim Enrolment Committee shall be established for each community composed of not less than three and not more than six persons chosen by the Inuit elders of that community.
- 35.4.4 On or before the first anniversary of the date of ratification of the Agreement, the interim Enrolment Committees shall complete their determination as to which applicants are entitled to be enrolled on the Inuit Enrolment List, and those applicants shall be enrolled by the DIO on the Inuit Enrolment List.
- 35.4.5 Upon completion of the work of an interim Enrolment Committee under Section 35.4.4, the persons from that community enrolled on the Inuit Enrolment List shall structure, in a manner they deem fit, an Enrolment Committee for that community to operate thereafter.

Is being met on an ongoing basis. The set-up and operation of the enrollment committees appears to be functioning in an effective manner and in general compliance with the terms of the NLCA. Little documentation was available for review, particularly with respect to set-up activities. No substantive problems were identified during the interview process.

Proceedings of Committees

- 35.6.1 Subject to Section 35.6.2, the Enrolment Committees, interim or otherwise, and the Appeals Committee may establish rules for conducting proceedings, including rules for the use of teleconferencing, written submissions, and time limits.
- 35.6.2 In making any decisions that would confirm, deny or remove entitlement to enrolment, the Enrolment Committees, interim or otherwise, shall:
- (a) give appropriate notice to applicants, appellants, and other directly interested parties; and
 - (b) allow applicants, appellants, and other directly interested parties an opportunity to make representations.
- 35.6.3 The Enrolment Committees, interim or otherwise, and Appeal Committee shall, upon request, supply to applicants, appellants and other directly interested parties written reasons for their decisions.
- 35.6.4 All proceedings of the Enrolment Committees, interim or otherwise, and the Appeals Committee shall be in Inuktitut and, at the request of a member of a Committee, the applicant or the appellant, in one or both of Canada's official languages

Is being met on an ongoing basis. Rules and procedures for the appeal process were published in 1996. Correspondence and minutes indicate at least some appellants have been allowed to make representations. Reasons for appeal decisions appear to be given as required. There is evidence of Inuktitut being used for conducting meetings, taking minutes, and communicating procedures.

Recommendations

The Enrollment Committees should document (or adopt) their operating procedures. The Enrollment Coordinator should:

- Periodically review the operations of each committee versus its own documentation; and,
- Encourage each CEC to keep minutes and file the minutes with the enrollment office.

Topic Area: Enrolment

Establishment of Appeals Committee

35.5.1 A Nunavut Enrolment Appeals Committee (Appeals Committee) shall be established to hear and decide:

- (a) appeals, commenced by an applicant for enrolment or another enrolled person, from a decision of an Enrolment Committee as to whether the applicant is entitled to be enrolled on the Inuit Enrolment List;
- (b) appeals, commenced by a person whose name would be removed or another enrolled person, from a decision of an Enrolment Committee as to whether a name should be removed from the Inuit Enrolment List; and
- (c) applications for enrolment by persons who believe that they meet the enrolment requirements of Paragraph 35.3.1 (e)(ii) but not Paragraph 35.3.1 (e)(i).

35.5.2 The Baffin Region Inuit Association, the Kitikmeot Inuit Association and the Keewatin Inuit Association, or their successors, shall each appoint one person from each community in its Region to a standing list of members for its Region.

35.5.4 The members of the standing list from each Region shall elect from among their number a member who shall be a co-chairperson of the Appeals Committee.

Is being met on an ongoing basis. The process and instances described by the Enrollment Coordinator and the documentation received were consistent with the requirements of the NLCA.

Appeals

35.5.5 The co-chairperson of the Region of an appellant shall select another Appeals Committee member from that Region, and a co-chairperson from one of the other Regions, and the said co-chairpersons and that member shall hear and determine the appeal.

35.5.7 Where a person appeals to the Appeals Committee as to a decision of an interim Enrolment Committee, the Appeals Committee shall hear and determine the appeal on or before the second anniversary of the date of ratification of the Agreement. *The NLCA was amended to extend the deadline to hear and determine appeals to July 9, 1996.*

Is being met on an ongoing basis. The process and instances described by the Enrollment Coordinator and the documentation received were consistent with the requirements of the NLCA. Appropriate application forms appear to exist.

Observations

The organization and completeness of documentation needs to improve. Some assistance in improving the administrative process may be needed.

Recommendations

The Enrollment Coordinator should maintain complete documentation on all aspects of the appeals process.

Topic Area: Enrolment

Payment of Expenses

35.8.1 The Government of Canada shall pay all expenses incurred for the establishment and work of the interim Enrolment Committees, and the work of the Appeals Committee, until the second anniversary of the date of ratification of the Agreement.

Has been met. An unsigned contribution agreement was reviewed, along with related financial schedules, a 1995 statement of claim from NTI, and notes in the NIP's annual report. This documentation indicates appropriate payments were made. The agreement appears to terminate three months prior to the second anniversary.

Observations

None.

Recommendations

None.

Topic Area: Implementation Panel

Establish Panel

37.3.1 Within sixty days of the date of ratification of the Agreement, an Implementation Panel shall be established.

Has been met. The NIP held its first meeting November 9, 1993.

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

Is being met on an ongoing basis. However, since the end of the review period, the seniority of the federal member has decreased. See discussion in Section 5.2.5, Panel Membership.

37.3.3 The Implementation Panel shall:

- (a) oversee and provide direction on the Implementation of the Agreement;
- (b) monitor the implementation of the implementation Plan, determining whether the ongoing and time-limited obligations, specific activities, and projects have been and are being carried out in accordance with the Plan and in the context of the Agreement and shall for that purpose, without duplicating other independent reviews, arrange for an independent review at five-year intervals unless otherwise agreed by the Panel;
- (c) monitor the development of the Implementation Training Plan;
- (d) accept or reject, with direction as appropriate, the Implementation Training Plan and monitor its operation when accepted;
- (e) attempt to resolve any dispute that arises between the DIO and Government regarding the implementation of the Agreement, without in any way limiting the opportunities for arbitration under Article 41 or legal remedies otherwise available;
- (f) when it deems it necessary, revise the schedule of implementation activities and the allocation of resources in the Implementation Plan, obtaining consent of the parties to the Plan where such revision requires an amendment to the Plan;
- (g) make recommendations to the parties to the Implementation Plan respecting the identification of funding levels for implementing the Agreement for multi-year periods beyond the initial ten-year period; and
- (h) prepare and submit an annual public report on the implementation of the Agreement including any concerns of any of the Panel members,
 - (i) to the leader of the Territorial Government for tabling in the Legislative Assembly,
 - (ii) to the Minister of Indian Affairs and Northern Development for tabling in the House of Commons, and
 - (iii) to the DIO.

Is being partially met on an ongoing basis. See discussion in Section 5.2, Panel Issues.

Costs of the Implementation Panel

37.3.4 The costs of the Implementation Panel shall be funded by the Government of Canada except that each of the governments and the DIO shall be responsible for the costs and expenses of its members.

Is being met on an ongoing basis. The Government of Canada has accepted its responsibility for funding the costs of the Panel.

Observations and Recommendations

Observations and recommendations are contained in Section 5.2, Panel Issues.

Topic Area: Implementation

Establish Nunavut Implementation Training Committee

37.5.1 The Nunavut Implementation Training Committee (NITC) shall be established within three months of ratification of the Agreement, and will consist of seven members to be appointed as follows:

- (a) the Tungavik and four other DIOs shall each appoint one member; and
- (b) Government shall appoint two members, one of whom is a senior official with authority to represent the Government of Canada in respect of training and education matters and one of whom is a senior official with authority to represent the Territorial Government in respect of training and education matters.

Has been met. The NITC was established in September, 1993. The initial appointments were made September, 1993 and maintained subsequently.

37.5.2 The NITC shall:

- (a) be trustees of the Implementation Training Trust established under Part 8 and administer it as a charitable trust;
- (b) develop guidelines for the expenditure of money from the Implementation Training Trust;
- (c) direct the Inuit Implementation Training Study as outlined in Part 6;
- (d) establish principles to guide the development of the Implementation Training Plan;
- (e) develop the Implementation Training Plan;
- (f) oversee the fulfillment of the Implementation Training Plan;
- (g) establish consultative arrangements between Government and Inuit that ensure effective integration of training funded from the Implementation Training Trust with existing Government training programs;
- (h) arrange for an independent review of the operations of the NITC and the implementation of the Implementation Training Plan to be undertaken no later than the fifth anniversary of the date of ratification of the Agreement and at least every fifth year thereafter during the life of the Plan; and prepare an annual report on its activities, including expenditures from the Implementation Training Trust, for the Implementation Panel.

Is being met on an ongoing basis. However, in the case of (c) and (h), there were delays. The trust agreement was signed December 15, 1993. Guidelines for the expenditure of money were published in September, 1993. The Implementation Training Study was published in September, 1994. The Implementation Training Plan was delivered in 1996 and subsequently revised. Consultative arrangements were established through the Nunavut Human Resources Development Strategy Working Group with both Governments. An RFP for an independent review of operations was issued in September, 1998 and the final report was issued in June, 1999, one year late. Annual reports are made to the Panel.

Conducting Inuit Implementation Training Study

37.6.1 Within three months of the date of ratification of the Agreement, an Inuit Implementation Training Study shall be undertaken in the Nunavut Settlement Area..

37.6.2 The Inuit Implementation Training Study shall be carried out under the direction of the NITC.

Has been met. The study commenced in September, 1993, within three months of ratification, and was carried out under the direction of the NITC.

37.6.3 The Inuit Implementation Training Study shall be completed within six months of its commencement.

Has been met. It was, however, delayed six months. The delay was due to the time required to establish the IPGs and Inuit organizations whose training needs were to be studied. There was also an attempt to gain efficiencies in conjunction with the labour force studies being done under Article 23.

Develop Implementation Training Plan

37.7.1 An Implementation Training Plan shall be developed by the NITC to address the implementation training requirements identified under the Inuit Implementation Training Study.

Has been met. The plan was presented to the Panel in July, 1996 and accepted by the Panel on December 5, 1996. However, while the plan addressed most of the training requirements identified under the study, the training plan differed on about a third of the requirements. For example: administrative support, professional/scientific and lands management.

37.7.2 The Implementation Training Plan shall identify:

- (a) existing Government training programs which, within their existing budgets, meet Inuit implementation training requirements identified under Section 37.7.1; and
- (b) training initiatives to be funded from the Implementation Training Trust where Inuit training requirements identified under Section 37.7.1 cannot be met under Sub-section (a).

Has been met. The training plan was completed in July, 1996.

37.7.4 The NITC shall forward a copy of its Implementation Training Plan to the Implementation Panel for its review and acceptance.

Has been met. On December 5, 1996 the Panel accepted the NITC's Training Plan.

Establish Implementation Training Trust

37.8.1 The DIO shall establish an Implementation Training Trust.

37.8.2 The object of the Implementation Training Trust shall be to fund the functions of the NITC including:

- (a) the Inuit Implementation Training Study
- (b) the development of the Implementation Training Plan
- (c) training in accordance with the Implementation Training Plan; and
- (d) the functions of the NITC, including the reasonable costs associated with the administration of the Trust, except that each Government and DIO shall be responsible for the costs and expenses of its own member.

37.8.3 On establishment of the Implementation Training Trust or ratification of the Agreement, whichever occurs later, the Government of Canada shall contribute \$13,000,000 of implementation funding to the Implementation Training Trust.

37.8.4 Nothing in this provision shall prevent the Trust from receiving donations, grants or funds from other sources.

Has been met. The Trust Agreement was signed on December 15, 1993. \$13,000,000 were contributed on October 6, 1999. Paragraph 2.1 of the Trust Agreement contemplates donations from any other persons.

Observations

Turnover of the NITC board and staff members has been as high as 87% in a year. The organization is centralized in one location, has established and maintained policies, procedures and an effective records-keeping system.

The NITC's role is not clearly understood by all Inuit organizations and Governments. In particular, there are different views on how direct or active a training role the NITC should take, what services it should provide, and to whom.

The Panel expressed concern in October, 1997 and again subsequent to the review period, that the NITC's work-plan had failed to include a procedure to assess the effectiveness and appropriateness of training initiatives, and provide accountability during the fiscal year.

There is still no resolution on what services the NITC should be providing and what form of accountability is appropriate.

Since 1996, the Nunavut Implementation Panel has consistently taken issue with the NITC's 1996 Implementation Training Plan and its revisions. Many of the initial criticisms of the NITC's plan appear valid.

It is noteworthy that an increasing number of Inuit who have received training supported by the NITC have successfully filled positions of increasing responsibility. Additionally, the current value of the trust exceeds its original value after paying all costs of the NITC and training to date.

Recommendations

The Panel should form a Task Group to determine if a consensus exists between the NITC and its client group on the type of services that the client group would like to receive.

The Panel should instruct the NITC, through its training plans, to comply with the recommendations of the Task Group.

In the absence of compliance, the Parties should agree to amend the NLCA in a manner that ensures compliance.

Topic Area: Transition Period for NPC, NIRB, and NWB

Establishment (Implementation Contract)

- 4.1 Transition Teams in relation to each of the NPC, NIRB, and the NWB shall be established in accordance with Sections 4.2 and 4.3 to perform activities in the period before the institutions are established to enable the institutions to be as operational as possible upon the date of establishment of the institutions.
- 4.2 Members of each Transition Team, including the chairpersons, will be named as members in an similar manner as the appointments provided in Sections 11.4.5, 11.4.10, 12.2.6, and 13.3.1 of the Nunavut Final Agreement. For the purpose of this Section, the Minister of Intergovernmental and Aboriginal Affairs shall exercise all nominating and appointing functions on behalf of the Territorial Government and the Minister of Indian Affairs and Northern Development shall exercise all functions on behalf of the Government of Canada.

Has been met. Transition Team members were appointed in October, 1994, however the schedule for implementation funding anticipated appointments in Year 1. The Territorial Government and NTI expressed concern about the length of time it took the Minister of DIAND to make appointments after their nominations were made. An orientation workshop was held in January, 1995 with all transition teams and representatives of Government and NTI.

- 4.3 Each Transition Team will, after the Implementation Panel has approved its application for incorporation, incorporate itself as a society under the territorial Societies Act.

Has been partially met. The NPCTT submitted articles of incorporation for approval by the NIP prior to submission for registration. The NIRBTT and NWBTT did not obtain prior approval of articles of incorporation from the NIP. The NIP issued direction for amendment to the articles of incorporation.

- 4.4 The Terms of Reference for each Transition Team are specified in Schedule 5 and may be amended by the Implementation Panel following consultation with the Transition Team.

Has been met. The NIP reviewed all terms of reference, and in some cases, directed amendment after consultation with the transition team.

- 4.5 The Implementation Panel will oversee and provide direction to Transition Teams.

Has been partially met. The NIP did monitor and provide direction to the transition teams during their existence. Transition teams stated that quarterly reports on operations were provided to the NIP. This could not be confirmed from the Panel's records. The NIP generally, but not always, discussed transition team reports and activities at their meetings.

- 4.6 Upon the establishment of the institution to which it relates, each Transition Team will cease to exist subject to any administrative requirements relating to the dissolution of the society as specified in laws of general application.

Has been met.

Observations

The objective for the transition teams was:

"...to perform activities in the period before the institutions are established to enable the institutions to be as operational as possible upon the date of establishment of the institutions."

The work of the transition teams was uneven. For example, some completed workplans early in their existence; others developed them later. Legislation to establish the institutions of public government was not passed during the review (or life of the transition teams). This affected the work of the transition teams in enabling their institutions to be operational as soon as possible after the date of establishment on July 9, 1996.

Recommendations

None.

Topic Area: Establishment of Arbitration Board

Establish the Board

- 38.1.1 An Arbitration Board (the "Board") shall be established.
- 38.1.2 The Board shall have nine members. The chairperson and the vice-chairperson shall be selected by and from the members of the Board.
- 38.1.3 The Government of Canada, the Territorial Government and the DIO will consult and attempt to reach agreement as to the persons to be initially appointed by them jointly to the Board.
- 38.1.4 If agreement is not reached within six months of the date of ratification of the Agreement for any or all of the nine appointments under Section 38.1.3, the remainder of appointments, upon request of the Government of Canada, the Territorial Government or the DIO, shall be made by a judge of the superior court having jurisdiction in the Nunavut Settlement Area.
- 38.1.5 Re-appointments or new appointments to the Board shall be made in accordance with Section 38.1.3 and 38.1.4, except that a judge may be requested to make any such appointment if agreement is not reached within six months of the vacancy occurring.

Has not always been met in the past, but is currently being met. Arbitration Board members were appointed under 38.1.4 on September 20, 1994. The reappointment process was not tested during the review period.

Staff, Budgets and Expenses

- 38.1.7 Any staff of the Board shall be provided by Government and any office of the Board shall be in the Nunavut Settlement Area. The Board shall prepare an annual budget, subject to review and approval by Government. The approved expenses of the Board shall be borne by Government.

Has been met. The Board does not have staff. Board members share administrative duties such as recording minutes. The Board's office is in the NSA. The Board prepares annual budgets, and approved expenses have been borne by Government. The Board has expressed concern over the level of funding allocated to it. The residence of members is outside the Board's control and, therefore, so too are the costs of members' travel to board meetings.

Rules and Procedures

- 38.3.1 The Board may establish rules and procedures for the conduct of references under this Article.

Has been met. The Board has adopted and published rules.

Establishment of Arbitration Panels

- 38.3.3 A reference shall be heard and determined by an arbitration panel selected from among members of the Board, consisting of:
- (a) one arbitrator, if agreed to by the parties to the arbitration; or
 - (b) three arbitrators, where one is selected by each of the parties to the arbitration, and a chairperson, appointed in accordance with Section 38.3.6.

- 38.3.6 The chairperson shall be a person agreed upon by the two arbitrators named under Sections 38.3.4 and 38.3.5, except that, failing agreement, the chairperson shall be appointed by a judge pursuant to the territorial Arbitration Act, and in such case the judge may appoint any person as a chairperson as the judge thinks fit, whether the person is a member of the Board or not.

No occasion to implement.

Record of decisions

- 38.3.14 The Board shall maintain a public record of the arbitration decisions of the arbitration panels.

No occasion to implement. The Rules provide for a registrar to implement this obligation. The Chairperson of the Arbitration Board was appointed as the registrar on July 4, 1998.

Observations

Nothing has been referred to the Arbitration Panel during the review period. The Parties to the NLCA and the Implementation Contract cannot say why, but have offered the following observations: Referral to the Arbitration Board requires the agreement of the involved Parties; and, decisions by the Arbitration Board are binding. See also comments in Section 5.3.4, The Dispute Resolution Processes.

Recommendations

The recommendations in Section 5.3.4, The Dispute Resolution Processes should be considered.

Record of Inuit Organizations

39.1.5 The Tungavik shall establish a public record of all Organizations designated under Section 39.1.3 and of all jointly designated organizations exercising powers of a DIO in accordance with Section 40.2.12, which record shall specify the powers, functions or authorities under the Agreement for which each one has been designated, and shall keep the record up to date.

Has not always been met in the past, but is currently being met.

Observations

Early in the review period, DIO designations were made by motion of the NTI Board outside of any formal process. A running recording of motions was kept but not always distributed. Later in the review period, NTI developed and published comprehensive materials to assist Inuit organizations in making their decision to seek DIO status. The publication "How to Become a Designated Inuit Organization" describes the eight step process to plan for and acquire designation. This process includes the preparation of budgets and action plans for implementation of the designated obligations and the signing of an agreement which spells out the terms of the designation and the provisions for monitoring by NTI.

A public record of designations was established during the review period and maintained at NTI's Iqaluit office. It is not widely distributed. In addition to the record, NTI has published and widely distributed summary information materials describing the relationships and roles of DIOs and other implementation bodies established under the NLCA.

NTI has provided DIAND and the MAA with updated designation lists on an irregular basis during the review period. The MAA distributes the list to departmental "contacts." DIAND has no process for distributing the DIO list within the Government of Canada. NTI's assumption has been that DIAND and the MAA will ensure distribution of DIO lists to interested departments and agencies. Government has made the assumption that NTI is distributing the list to others.

A review of the DIO record noted rare instances of minor errors.

Recommendations

NTI should improve the accessibility to DIO lists (for example, including this information on a web site).

NTI should provide more regular updates of the DIO list to Government and the NIP.

Governments and NTI should formalize their processes for distribution of DIO lists between and within the Parties.

Jointly Owned Lands

40.2.9 All provisions of the Agreement applying to Inuit Owned Lands except Part 3 of Article 19 but including provisions respecting property descriptions, surveys and boundaries, shall also apply to the jointly owned lands referred to in Section 40.2.8. Any power of a DIO under the Agreement in respect of Inuit Owned Lands in the Area of Equal Use and Occupancy shall be exercised and enjoyed jointly by the DIO and Makivik in respect of those jointly owned lands.

Benefits in Areas of Equal Use and Occupancy

40.2.12 Notwithstanding Section 40.2.4 and subject to Section 40.2.13, in the Areas of Equal Use and Occupancy, the rights of the Inuit of Nunavut pursuant to Section 5.6.39 and Part 8 of Article 5 and to Articles 8, 9, 26, 33, 34 shall apply equally to the Inuit of Northern Quebec and the functions of a DIO pursuant to those Articles shall be exercised by an organization jointly designated by the Tungavik and Makivik to exercise those functions or, in the absence of such designation, by the DIO.

Is being met on an ongoing basis. NTI has retained designation for implementation of these obligations. An interim co-management regime has been established between Makivik and NTI. The NIRB, NWB, NPC, and NWMB have Makivik nominees in place.

Observations

None.

Recommendations

None.

Topic Area: Contwoyto Lake Lands

General

- 41.1.1 Upon ratification of the Agreement, Government shall grant to the DIO fee simple title, including the mines and minerals that may be found to exist within, upon or under such lands, to the parcels of lands described in Schedule 41-1.

Has not been met. NTI designated the KitlA as the grantee of title. Since the end of the review period, the title has been transferred to the KitlA as required.

Observations

The obligation has now been implemented.

Recommendations

None.

Topic Area: Manitoba Area East of Manitoba

Inuit Harvesting Rights

- 42.2.2 In the marine area east of Manitoba, Inuit designated by the Keewatin RWO shall have the right to harvest wildlife up to the level, taking into account Inuit harvesting of that species outside the marine area east of Manitoba, required to satisfy their personal, family or community consumption needs, subject only to restrictions or limitations imposed by management agencies necessary to:
- (a) effect a valid conservation purpose;
 - (b) provide for public health or safety, or humane methods of harvesting;
 - (c) implement those terms of an international agreement, as qualified by Section 5.9.1, that were in existence at the date of ratification of the Agreement;
 - (d) provide for harvesting by other aboriginal peoples pursuant to an aboriginal or treaty right and the reasonable harvesting activities of other harvesters, provided that the Inuit right to harvest a species:
 - (i) shall not be more severely limited or adversely regulated than is the case with any other aboriginal peoples harvesting the same species; and
 - (ii) shall take priority over harvesting of that species by non aboriginal users;
 - (e) provide reasonable limits on disturbance or depletion of any species important for tourism; or
 - (f) in relation to a Park or Conservation Area, implement the terms of an agreement between the Keewatin RWO and the management agency responsible for that Park or Conservation Area.
- 42.2.4 Before imposing a restriction or limitation under Section 42.2.2, the management agency shall consult with the NWMB and the Keewatin RWO.
- 42.2.9 The Keewatin RWO shall provide the Inuit designated by it with proof of such designation. Inuit may exercise the right to harvest under Section 42.2.2 with such proof without any form of licence or permit and without the imposition of any form of tax or fee.

Has not been met. Organizations involved in the implementation of these obligations could not point to formal procedures or implementation plans. All reported some activities over the review period, for example a Polar Bear Management Agreement for the Western Hudson Bay Region, but generally could not document processes to achieve results.

Observations

Territorial Government responsibility for implementing these obligations is now with the Government of Nunavut.

Recommendations

Government and the Keewatin RWO should develop an action plan for implementation during the next review period.

Conclusions on the Status of Obligations

A summary of the status of obligations is provided in Figure 2.1. Overall, there has been a significant amount of success. It is important to recognize the commitment and effort it has taken to get this far. There are, however, a large number of obligations that remain unsatisfied.

Figure 2.1 is somewhat simplistic, but does provide one perspective of a very complex picture. Other items to consider in reviewing this information include:

- in a small number of cases the Parties have made a conscious decision to delay implementation;
- where there has been no occasion to implement an obligation, the obligation is not included in the analysis;
- often, more than one organization or Party needs to contribute to the implementation effort before an obligation can be completed; and,
- closely related obligations have been grouped.

Further, many of the obligations are ongoing in nature. Figure 2.1 does not reflect the quality of the underlying management process and the ability to sustain a successful result.

Figure 2.1 - Summary of Implementation Performance

Topic Area	Articles	Substantially Complete	Partially Complete	Largely Unmet	Total Obligations
General	1, 2,4	2	2	1	5
Wildlife and Harvesting	5, 6	14	9	7	30
Parks, Camps & Conservation Areas	7, 8, 9	8	3	14	25
Institutions of Public Government	10, 11, 12, 13	8	10	2	20
Lands and Lands Management	14, 15, 19, 21,40,41,42	19	10	9	38
Inuit Employment	23 only	2	1	4	7
Government Contracts	24 only	8	6	6	20
IIBAs & Resource Management	25, 26, 27, 28	6	1	2	9
Archaeology and Ethnographic	33, 34	9	1	3	13
Inuit Enrolment	35 only	8	0	0	8
Implementation Panel	37, Transition	8	2	0	10
Designated Inuit Organizations	39 only	1	0	0	1
Other Related Organizations	31, 32, 38	5	1	1	7
Summary Total		98	46	49	193

Observations about Current Progress: The Review Team noted a pattern of missed deadlines and slow starts, a lot of unproductive and extended discussions, backsliding on obligations, loss of corporate memory and capacity, and the consumption of resources without a full result. This led the Review Team to believe there could have been better completion of results.

The best results tended to come from situations where front-line managers entered into productive discussions, or where the Implementation Panel was able to agree on a course of remedial action. The worst results tended to come in situations where the Parties or implementing bodies failed to enter into constructive discussions, and opted instead for stating positions unilaterally.

When the Panel process worked, it was quite effective. At a senior level, it allowed for an enlightening exchange of ideas and well-coordinated efforts. At the working level, the Panel process demonstrated it could lead to constructive and practical solutions that all parties could buy into. The success of the Panel is a good foundation to build on when improving the management of the implementation environment.

Barriers to Further Progress: The Review Team did not find a great deal of willful obstruction. Most representatives of the Parties and implementing bodies were genuinely interested in seeing the Agreements implemented as intended. Most of the barriers to better implementation success tended to be systemic or process-related.

At present, the implementation effort requires more joint action, better working relationships, and significantly better management process.

Section 5 of the report discusses systemic and process-related problems, and recommends specific improvements to the management of the implementation effort.

3.0 INUIT EMPLOYMENT IN GOVERNMENT

This section looks at the Inuit Employment Plans (IEPs), and addresses the following topics:

- Territorial Government IEPs;
- Federal Government IEPs;
- Analysis of current results; and,
- Issues related to the IEPs.

5 Year Review

Article 23.7.1 states:

“On the fifth anniversary of the date of ratification of the Agreement ... the Panel shall arrange for an independent review of the Inuit employment plans and the other measures under this Article. ... The Implementation Panel shall identify and recommend measures to correct any deficiencies in the implementation of this Article.”

This five year review is a separate requirement from the overall review of the Agreements required under Article 37 of the NLCA. The requirement under Article 37 is the subject of the entire report. The requirement under Article 23 is addressed by Section 3 of this report and the analysis of Article 23 obligations contained in the previous section.

Panel Responsibility with Respect to the 5 Year Review

Article 23.7.2 states:

“The findings of the independent review and recommendations of the Implementation Panel shall be consolidated in the relevant annual report prepared by the Implementation Panel ...”

3.1 TERRITORIAL GOVERNMENT

The IEPs of the following departments were reviewed:

- Education, Culture and Employment (EC&E);
- Financial Management Board Secretariat (FMBS);
- Health and Social Services (H&SS);
- Justice;
- Municipal and Community Affairs (MACA);
- Housing Corporation (Housing);
- Public Works and Services (PWS);
- Resources, Wildlife and Economic Development (RWED); and,
- Transportation.

3.1.1 Development of the Plans

Development of the plans was the responsibility of each department, however, a senior manager in EC&E was given the responsibility of coordinating and coaching the development of the IEPs. This likely resulted in a higher level of effectiveness overall. The Territorial Government IEPs were all developed on time.

NTI did not participate in any meaningful way in the development and implementation of the IEPs, as required under Article 23.2.2. It does not appear that either Party took the initiative to make these plans a cooperative effort.

3.1.2 Content

Figure 3.1 (next page) provides an analysis of the content of the Territorial Government's IEPs. The following required content was generally included:

- Current levels of Inuit representation;
- Identification of underrepresented areas;
- Short and medium-term goals, plus timetables;
- Operational requirements and attrition rates;
- Addressing excessive education and experience requirements;
- Plans for recruitment, job postings, and in-service training; and,
- Promotion of on-the-job, cross-cultural, and special training opportunities.

Missing or deficient requirements of the IEPs typically included:

- Analysis of full and part-time positions;
- Identification of Inuit desiring to become qualified;
- Measures consistent with the merit principle;
- Analysis of the personnel system and practices;
- Identification of impediments;
- Use of testing procedures without cultural bias;
- Inuit involvement in selection panels;
- Searches outside the NWT for useful practices; and,
- Meaningful monitoring tools.

Figure 3.1 - Analysis of Territorial Government IEPs

	RWED	FMBS	H&SS	EC&E	Justice	MACA	Hous.	PWS	Trans.
Timeliness of Production									
23.4.1 Initial IEP prepared within three years	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Date available	Jul 96	Jul 96	Jul 96	Jul 96	Jul 96	Jul 96	Jul 96	Jul 96	Jul 96
Content Requirements									
23.4.2 An Inuit Employment Plan shall include the following:									
(a) determine current level of Inuit representation	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
identify areas of underrepresentation by occupation	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
regular full-time & part-time	Yes	No	No	No	No	No	No	No	No
(b) short & medium-term goals, with numerical targets	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
timetables for employment levels where underrepresentation has been identified	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
identify # of Inuit who are, or would like to be qualified	No	No	No	No	No	No	No	No	No
projected operational requirements	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
projected attrition rates	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
(c) analysis of personnel system	No	No	No	No	No	No	No	No	No
analysis of policies & procedures	No	No	No	No	No	No	No	No	No
identify impediments	No	No	No	No	No	No	No	No	No
(d) measures consistent with the merit principle	No	No	No	No	No	No	No	No	No
(i) removal of inflated education requirements	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
removal of excessive experience requirements	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
use of testing procedures without cultural biases	No	No	No	No	No	No	No	No	No
(ii) intensive recruitment	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
competition postings through Nunavut	No	No	No	No	No	No	No	No	No
postings in Inuktitut	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
(iii) job descriptions include social & cultural awareness	No	No	No	No	No	No	No	No	No
(iv) Inuit involvement in selection panels	No	No	No	No	No	No	No	No	No
(v) counseling services	No	No	No	No	No	No	No	No	No
(vi) in-service upgrading	Yes	No	No	Yes	Yes	Yes	Yes	Yes	Yes
(vii) promotion of apprenticeship, internship, and OTJ training	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
(viii) special train'g opportunities	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
(ix) search and use of successful methods from other gov'ts	No	No	No	No	No	No	No	No	No
(x) cross-cultural training	Yes	Yes	No	Yes	Yes	Yes	Yes	Yes	Yes
(e) identification of a senior official to monitor the plan	Yes	Yes	Yes	No	No	Yes	Yes	Yes	Yes
(f) monitoring & reporting	Yes	Yes	No	No	No	No	No	No	No

Conclusions

Overall, the Territorial Government made a credible attempt at developing the IEPs. There were weaknesses, but the plans were workable and had a reasonable expectation of results.

3.1.3 Innovation and Learning

As a new initiative to bridge whatever gaps existed between Inuit/Inuit culture and the employment practices of the government workplace, the IEPs required some degree of innovation and creativity.

Territorial government departments did experiment with different approaches. The following strategies were found to be effective:

- Career-based training programs, combined with relevant workplace training;
- Direct appointments;
- New post-secondary programs offered by Nunavut Arctic College; and,
- Sponsorship of programs directed at secondary school students.

The Territorial Government has also identified approaches it felt were ineffective, and areas for future experimentation.

Conclusions

Overall, the Territorial Government made a reasonable, although not outstanding, effort to find new ways of working with Inuit and Inuit culture.

3.1.4 Monitoring and Response

There is reasonable monitoring of the level of Inuit employment, however, this tends to be the focus of most monitoring efforts.

The monitoring of IEP activities versus plans and expected timelines was less well performed. Moreover, when monitoring did reveal a lack of progress, it often did not result in remedial action. Other priorities tended to be the reason for the lack of effective monitoring and response.

It would be useful to have some form of management-level control on the implementation of the IEPs, with a regular central review of the progress made in implementing each activity under the departmental IEPs.

In practice, the 'senior monitoring individuals' required under the Agreement appear to have given way to a group of middle managers with responsibilities for IEPs.

Conclusions

Some monitoring has taken place, particularly for Inuit employment levels. However, there needs to be a significant improvement in the monitoring of implementation activities, and remedial action.

3.2 FEDERAL GOVERNMENT

The IEPs of the following departments were reviewed:

- Fisheries and Oceans (DFO);
- Public Works and Government Services (PWGS);
- Indian Affairs and Northern Development (DIAND);
- Parks Canada (Parks);
- Justice; and,
- Human Resources Development Canada (HRDC).

3.2.1 Development of the Plans

Each department developed an IEP as required. There was no central monitoring, as was the case with the Territorial Government.

NTI did not participate in any meaningful way in the development and implementation of the IEPs, as required under Article 23.2.2. It does not appear that either Party took the initiative to make these plans a cooperative effort.

3.2.2 Content

Figure 3.2 (next page) provides an analysis of the content of the Federal Government's IEPs. The following required content was generally included:

- Current levels of Inuit employment;
- Short and medium-term goals;
- Promotion of existing programs; and,
- Plans for cross-cultural training.

Missing or deficient requirements of the IEPs:

- Identifying areas of underrepresentation;
- Analysis of full and part-time positions;
- Timetables for achievement of goals;
- Identification of impediments;
- Analysis of the personnel system and practices;
- Addressing excessive education and experience requirements;
- Intensive recruitment programs; and,
- Meaningful monitoring tools.

With the federal presence in Nunavut now increasing, it would be useful to re-examine the appropriateness of the existing IEPs.

3.2.3 Monitoring and Response

With the exception of DIAND, there did not appear to be any senior departmental officials monitoring or managing the federal IEP efforts. Accordingly, it is difficult to determine the extent and quality of the federal monitoring and response activities. While a small number of efforts were noted in this regard, this appears to be the exception rather than the rule.

Figure 3.2 - Analysis of Federal Government IEPs

		DFO	PWGS	DIAND	Parks	Justice	HRDC
Timeliness of Production							
23.4.1	Initial IEP prepared within three years	Yes	Yes	Yes	Yes	Yes	Yes
	Date available	Jul 96	Jul 96	Undated	Undated	Jul 96	Jun 96
Content Requirements							
23.4.2	An Inuit Employment Plan shall include the following:						
(a)	determine current level of Inuit representation	Yes	Yes	Yes	Yes	Yes	Yes
	identify areas of underrepresentation by occupation	No	No	No	No	No	No
	regular full-time and part-time	Yes	No	No	No	No	No
(b)	short and medium-term goals, in the form of numerical targets	No	Yes	Yes	Yes	No	Yes
	timetables for employment levels where underrepresentation has been identified	No	No	Yes	Yes	No	Yes
	identify number of Inuit who are, or would like to be qualified	No	No	No	No	No	No
	projected operational requirements	Yes	No	Yes	Yes	No	Yes
	projected attrition rates	No	No	No	Yes	No	No
(c)	analysis of personnel system	No	No	No	No	No	No
	analysis of policies & procedures	No	No	No	No	No	No
	identify impediments	No	No	No	No	No	No
(d)	measures consistent with the merit principle	No	No	No	No	No	No
(i)	removal of inflated education requirements	No	No	Yes	No	No	No
	removal of excessive experience requirements	No	No	Yes	No	No	No
	use of testing procedures without cultural biases	No	No	Yes	Yes	No	Yes
(ii)	intensive recruitment programs	No	Maybe	Yes	Yes	No	Yes
	competition postings through Nunavut	No	Increased	Increased	No	No	Increased
	postings in Inuktitut	No	No	Yes	Yes	No	Yes
(iii)	job descriptions to include social and cultural understanding	No	No	Yes	Yes	No	Yes
(iv)	Inuit involvement in selection panels, or advice to panels	Yes	No	Yes	Yes	No	Yes
(v)	provision of counseling services	No	No	Yes	No	No	Yes
(vi)	in-service upgrading	No	No	Yes	Yes	No	Yes
(vii)	promotion of apprenticeship, internship, and OTJ training programs	Yes	Yes	Yes	Yes	No	Yes
(viii)	special training opportunities	DIO pays	No	Yes	Yes	Yes	Yes
(ix)	search and use of successful methods from other governments	No	No	Yes	No	No	Yes
(x)	cross-cultural training	Yes	No	Yes	Yes	Yes	Yes
(e)	identification of a senior official to monitor the plan	Yes	No	Yes	Yes	n/a	No
(f)	monitoring & reporting mechanism	No	No	No	Discussed	No	Discussed

3.3 ANALYSIS OF EMPLOYMENT RESULTS

This section of the report looks at the results achieved in increasing Inuit employment since the IEPs were developed. Based on the available information, performance appears to have been static. There has not been any analysis of why there was no improvement.

3.3.1 Territorial Government Results

Figure 3.3 shows the levels of Inuit employment achieved by each territorial government department.

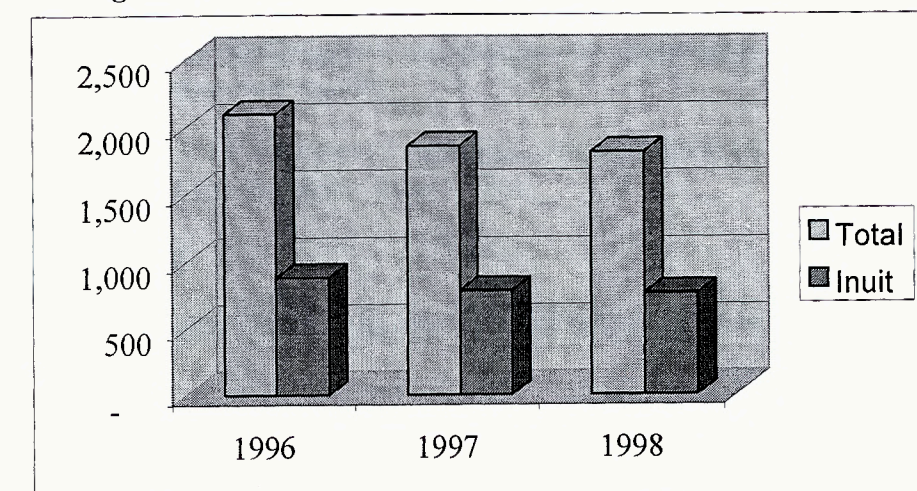
Figure 3.3 - Territorial Government – Inuit % of Workforce by Department

Department	1996	1997	1998
RWED	36	22	42
FMBS	49	46	63
H&SS	38	41	37
EC&E	47	47	47
Justice	30	27	26
MACA	24	24	32
Housing	24	43	42
PWS	47	38	41
Transportation	39	47	37
Overall	42	42	42

Source: GNWT, Annual Report on Inuit Employment Plans, March, 1999.

Figure 3.4 shows the trends in the total number of Inuit employed by the Territorial Government in Nunavut.

Figure 3.4 - Territorial Government Employment in Nunavut



While the percentage of Inuit in the Territorial Government workforces has remained the same, the total number of Inuit employed by the Territorial Government has declined, in line with overall downsizing of this Government in Nunavut.

3.3.2 Federal Government Results

Minimal information on Inuit employment was available from the federal government departments in Nunavut.

DIAND was the only department to provide information on recent results. Figure 3.5 shows the levels of Inuit employment achieved in Nunavut by occupational grouping.

Figure 3.5 - DIAND – Inuit % of Workforce by Occupational Group

Occupational Group	1996	1999
Executive/Management	0	50
Officers	60	60
Administrative Support	0	75
Overall	38	61

Source: DIAND, Inuit Representation, 1999, 1996.
Note: The 1999 figures indicate a total of 11 Inuit working in DIAND.

Conclusions

Overall, there is not enough information to draw meaningful conclusions about the state of Inuit employment in the Federal Government or the effectiveness of the methods used.

Through observation and anecdotal information, the Review Team notes that there is Inuit employment in the Federal Government’s Nunavut operations. However, no monitoring information was available.

3.4 ISSUES RELATED TO THE IEPs

This section of the report examines the issues related to the IEPs, including:

- Assessing the overall effort on Article 23;
- Role of the Panel;
- Understanding Inuit employment issues;
- Municipal IEPs;
- A caution on pushing too hard;
- Modifying the Inuit employment target with a working-age formula; and,
- Preferred areas of employment.

3.4.1 Assessing the Overall Effort on Article 23

The IEPs have resulted in a number of successes, some creative experimentation, and certain training efforts. In addition, the existence of a target level for Inuit employment has helped raise the overall profile of this issue in the minds of government managers. This having been said, there have been more failures than successes with Article 23.

As a related matter, the Nunavut Unified Human Resource Development Strategy (NUHRDS) was a sensible example of cooperation in the areas addressed by Article 23, however, this strategy was not intended to displace any of the obligations under this Article.

Key Obligations Missed

The implementation efforts for Article 23 had the following defects:

- The labour force analysis was ineffective;
- There were significant holes in the IEP efforts of both Governments;
- The IEPs were not posted, and often not used effectively;
- Results were not monitored in the Federal Government;
- Pre-Employment Training Plans were largely ignored; and,
- Despite a joint obligation to work cooperatively, cooperation has been the exception rather than the rule.

These items represent the substance of Article 23. Failure in these items represents the overall failure to achieve the intent of this Article.

No One Is In Charge

The effort to implement Article 23 has been plagued by turnover, a lack of coordination, and a lack of vision.

For example, both NTI and the Federal Government are aware of the problems with Pre-Employment Training Plans (PTPs) and, despite the joint government/Inuit nature of the responsibility, neither Party has taken action. Both Parties appear to be waiting.

The Territorial Government’s efforts to implement their IEPs, with a Project Manager responsible for seeing the IEPs were effective, showed better results.

It would be useful to extend the concept of a responsible Project Manager to all the Parties. The Parties would assign responsibility to these three Project Managers for leading the cooperative and coordinated implementation of Article 23 as a whole. The Panel would also assign one of its staff specific responsibilities for coordinating with the Parties' Project Managers and monitoring their progress in seeing that all obligations are addressed.

Focus Of Compliance Efforts

The compliance efforts noted by the Review Team showed a focus on the detailed content requirements, without much thought given to overall effectiveness. When concerns were expressed by the NIP or one of the Parties, much of the discussion centred on technical details, rather than getting on with the job of helping Inuit to succeed in the workplace.

Further, it is not sufficient or helpful for one Party to suggest that the other Party has made no effort to cooperate. A more constructive effort would be to suggest that the Parties sit down together to identify and develop effective approaches.

Conclusions

The Parties have not yet achieved a successful implementation of Article 23.

If the intent of the Agreement is to find innovative and effective ways of assisting Inuit to become self-reliant through employment, the intent of Article 23 has not been met.

The cooperation between government and Inuit called for in Article 23 has been notably absent. All Parties share the responsibility in this regard.

Inuit have missed out on a substantial portion of the potential benefits expected under Article 23.

Article 23 is about more than just a target rate for Inuit participation. It is about assisting Inuit to be successful in the workplace. Much of the compliance effort seemed to lose sight of this fact.

All Parties can do a substantially better job of discharging their responsibilities, and need to make a renewed effort at implementing this Article.

Recommendations

The Parties should restart their efforts with a new initiative to implement the key provisions of Article 23.

The Parties should each appoint a Project Manager to work collaboratively with each other and to lead a renewed effort on Article 23 to ensure all obligations are addressed.

The Panel should appoint one of its staff members to monitor the progress of this renewed effort.

The Parties should form a joint Task Group of the Project Managers to share approaches used for implementing obligations and lessons learned.

3.4.2 The Role of the Nunavut Implementation Panel

The Panel has a responsibility to "oversee and provide direction."

Many of the deficiencies noted in the Article 23 obligations could have been avoided if the Panel had been more effective and timely in managing the issues. While the Panel did devote considerable time and effort to some issues (e.g., the labour market study), it was largely silent on Pre-Employment Training Plans.

Given the limited success of Article 23, the Panel (as the only joint body capable of taking action) had a responsibility to step in and take remedial action to protect the investment of effort and the potential benefits for Inuit.

There were opportunities to succeed. However, someone needed to intervene at appropriate points to keep the implementation effort effective. The Panel, with its mandate to oversee and direct, is the body of choice. If the Panel fails to take corrective action, similar results can be expected in the future.

The Panel appears to lack the tools (e.g., effective reporting of results, clear benchmarks for measurement, a framework for decision-making) to adequately monitor and make decisions on the state of Article 23 obligations and the IEPs.

Recommendations

The Panel should act as a management-level control on the effort to implement Article 23, with active monitoring and directing.

The Panel should take a more proactive stance in measuring results, and intervene when obligations are not being met.

The Panel should develop a better set of management tools for monitoring and decision-making related to Article 23.

3.4.3 Understanding Inuit Employment Issues

There is not currently a good understanding of the issues surrounding Inuit participation in government employment. As the development and use of IEPs has only been partly compliant and monitoring has only been partly effective, it is difficult to draw conclusions. Nevertheless, it is not clear that proper execution of the IEPs will move results any closer to an objective of increased Inuit participation in government employment.

While the IEPs still need to be properly developed and implemented, there may well be additional barriers that need to be addressed before the desired results can be achieved.

The Review Team observed a number of instances where the constructive efforts of government managers were not having much impact. This observation also indicates that additional issues are at work, although the answers are not readily discernable.

If the Parties agree that they are working towards an objective, rather than simply the development of plans, it makes sense to discern what other issues might be preventing success, and if such issues exist, to determine what government managers could reasonably be expected to do about these issues.

In addition, there may be collateral, but undocumented, benefits flowing from the IEP efforts. There is anecdotal information that material numbers of Inuit have received government training and have then moved on to other jobs, including jobs in Inuit organizations.

For the moment, the important matter is to determine what if any additional issues are impacting success in the objective of Article 23. A closer examination is needed.

Part of this examination should involve the improved monitoring of current results to determine areas of strength and weakness. This will provide one starting point for determining cause and effect.

Recommendations

The Panel should conduct an in-depth examination of any issues preventing success in achieving higher rates of Inuit participation in government employment.

3.4.4 Municipal IEPs

There is disagreement on the application of IEPs to municipalities.

Article 23 specifically contemplates municipalities, stating in the definitions that:

“... government employment includes ... positions for which a Municipal Corporation is the employer;”

The objective of Article 23 indicates the Article’s intent is to “... increase Inuit participation in government employment.”

“Government organizations” are the entities that are required to prepare IEPs, and are defined as follows:

“... government organization means a department or similar body within Government.”

‘Government’ in turn is defined as either the Federal or Territorial Governments. This definition does not appear to include municipalities.

Taken together, there is room to make a case either way. Stepping back and looking at the context for IEPs, the situation does not get much clearer. On the one hand, municipalities are a substantial portion of government employment in most communities of the NSA. On the other hand, there does not appear to be any further anticipation of working with municipal governments (e.g., no funding dedicated for this purpose in relation to implementing the obligations of Article 23).

With the written intentions less than instructive, a practical solution is called for.

A workable solution involves measuring the degree of success or failure in employing Inuit at the municipal level before requiring effort to be expended on preparing IEPs.

If a municipality is significantly deficient in its employment of Inuit individuals, relative to the desired target, then that municipality should develop an IEP.

By requiring communities which already have a high level of Inuit employment to prepare an IEP, the IEP process will be subject to criticism. It will also reduce the credibility of the process in the eyes of those who must implement it. If there is a significant problem with Inuit participation in a community, then some form of action plan to raise the participation rate is desirable.

The best solution is likely across-the-board monitoring of all municipalities on an annual basis, combined with a requirement to develop and implement an IEP if Inuit employment is lower than targeted.

Recommendations

All municipalities should report on their levels of Inuit employment each year.

The Territorial Government should prepare a summary of Inuit participation in municipal employment each year, and report the results to the Panel annually.

Where a municipality employs fewer Inuit than indicated by the target level for Inuit employment, the Panel, with the cooperation of the appropriate government minister, should require that municipality to develop an IEP for the following three years.

3.4.5 A Caution on Pushing Too Hard

Discussions with government managers and other individuals who are positioned to observe the front-line results of Article 23 indicate there may be signs of pushing Inuit managers up the line before they can fully handle the responsibilities.

The Review Team observed:

- Concerns on the part of Inuit and non-Inuit managers;
- Competition for Inuit employees and managers; and,
- Significant job-hopping and turnover of Inuit staff.

The information received was often anecdotal, and related to concerns about burning out the best Inuit, damaging the confidence of individuals with good potential (by pushing them into situations they were not ready to handle), and setting Inuit up for failure. While some individuals react well to the rapid escalation of personal responsibility, there may be a significant number of Inuit who are having negative experiences in this regard.

The 5 Year Review did not collect sufficient information on this issue to warrant a conclusion. As a result, the discussion is offered as an ‘alert’ to a potential problem.

If the problem is real, it needs to be managed carefully. The potential for long-term damage to some of the best potential Inuit managers is not something that should be risked. At the same time, vague concerns regarding this issue should not be used as an

excuse to reduce opportunities for Inuit managers. A need for a more sophisticated understanding and management of this issue is indicated.

Recommendations

NTI should study the impact of rapid escalation of responsibilities on Inuit individuals in order to better understand the issue and determine if a response is required.

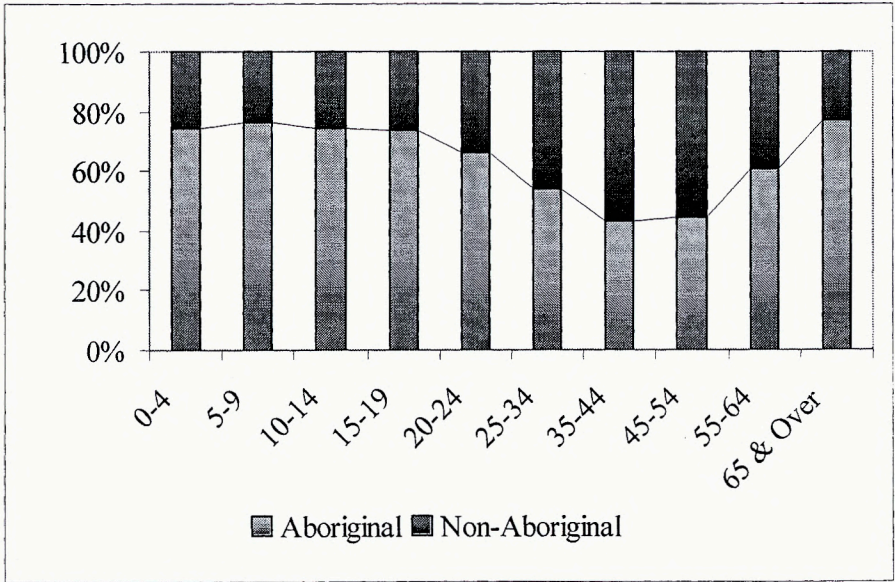
3.4.6 Modifying the Inuit Employment Target with a Working-Age Formula

Ideally, Inuit would be employed in government in the same proportion as found in the general population, as set out in the NLCA. This type of benchmark is easily understood, communicated, and calculated. In the absence of other factors, this approach makes sense and effectively puts the onus on government managers to overcome any barriers to achieve equitable access to employment.

There is, however, one identifiable factor that is not controllable by government managers. This is the availability of working-age Inuit. The population profiles of Inuit and non-Inuit are dramatically different.

Figure 3.6 presents the age profile of aboriginal and non-aboriginal populations in the NWT from the 1996 Census. Profiles in Nunavut are similar.

Figure 3.6 - Analysis of Aboriginal Population by Age Group



Source: NWT Bureau of Statistics, Aboriginal Identity Analysis, 1996 Census.

The working-age population available to government managers ranges from 50 to 70 percent Inuit (approximately), depending on the age group. Two aspects of this phenomenon need to be understood. To some degree the phenomenon is due to imported workers and their families. There are, however, enough permanent non-Inuit workers resident in Nunavut to warrant a close look at adapting the target formula to reflect the working-age population.

If there is an intention to motivate government managers to find innovative ways to overcome the barriers that Inuit face, the goals need to be realistic.

It is a basic tenant of management practice (and human behaviour), that goals that are considered to be out of reach are effectively ignored. Goals that are considered achievable are better motivators. Setting the goal for Inuit employment as equal to the proportion of working-age population rather than total population, is a more realistic expectation in the near future, perhaps the next five years.

If the concept leads to undesirable or less than satisfactory results, it can be abandoned at that time.

Calculating A Target Percentage For Inuit Employment

NTI's enrollment list defines who is an Inuk. Further, the enrollment list is kept with associated information on each Inuk, including the age of the individual. Relating the number of working-age Inuit to the overall workforce could be calculated based on NTI's enrollment figures and current population estimates.

Further, the target for Inuit employment should be stated in terms of both a percentage target and a target number of jobs. The following formula provides an example of an adjusted calculation.

$$JI = \frac{(ET - E18 - E66)}{(PT - P18 - P66)} \times (JN + JO)$$

Where: JI - Jobs for Inuit; JN - Departmental jobs in Nunavut; JO - Nunavut-related jobs outside Nunavut; ET - Total Inuit enrollment; E18 - Inuit aged 18 and under; E66 - Inuit over 65; PT - Total Nunavut population; P18 - Nunavut population aged 18 and under; P66 - Nunavut population over 65.

Where there are jobs in a government which are largely dedicated to matters concerning Nunavut, these jobs should be included in the calculation of the number of jobs, regardless of where departmental management has chosen to locate the positions.

Further refinements could be considered, to allow for such statistically measured variables as participation rates in the labour force.

Rather than have each department calculate their own target percentage, and rather than have one of the Parties unilaterally make this determination, it would be helpful to have the percentage decided jointly by the Parties after meaningful discussions with individual government managers.

Verification of departmental results should also be conducted jointly each year by confirming the enrollment status of those employees said to be Inuit.

Government managers are more likely to buy in if they have been part of the process of setting their performance objectives.

Recommendations

The Parties should agree to an adjustment in the way the target for Inuit employment is calculated. The target for Inuit employment should be:

- Calculated and communicated to key stakeholders annually;
- Designed to incorporate information on the availability of the Inuit workforce;
- Be determined by the Implementation Panel; and,
- Be verified each year by the Implementation Panel.

3.4.7 Preferred Areas of Employment

In managing the level of Inuit employment, senior government officials should consider the preferences Inuit have demonstrated in the type of employment they choose (e.g., possibly wildlife occupations). It makes sense that if such preferences exist, Government must set targets which require a higher level of Inuit employment for preferred occupations in order to meet overall Inuit employment targets.

Good management would seem to require that Governments set internal targets in various areas (e.g., by department), with some departments having higher-than-average goals and some departments having lower-than-average goals, if there is to be a realistic expectation of meeting the overall target level.

Recommendations

Government managers should consider varying the target levels of Inuit employment by department in order to improve the chances of meeting an average, overall target.

3.5 SUMMARY OF RECOMMENDATIONS

The Parties should restart their efforts with a new initiative to implement the key provisions of Article 23.

The Parties should each appoint a Project Manager to work collaboratively with each other and to lead a renewed effort on Article 23 to ensure all obligations are addressed.

The Panel should appoint one of its staff members to monitor the progress of this renewed effort.

The Parties should form a joint Task Group of the Project Managers to share approaches used for implementing obligations and lessons learned.

The Panel should act as a management-level control on the effort to implement Article 23, with active monitoring and directing.

The Panel should take a more proactive stance in measuring results, and intervene when obligations are not being met.

The Panel should develop a better set of management tools for monitoring and decision-making related to Article 23.

The Panel should conduct an in-depth examination of any issues preventing success in achieving higher rates of Inuit participation in government employment.

All municipalities should report on their levels of Inuit employment each year.

The Territorial Government should prepare a summary of Inuit participation in municipal employment each year, and report the results to the Panel annually.

Where a municipality employs fewer Inuit than indicated by the target level for Inuit employment, the Panel, with the cooperation of the appropriate government minister, should require that municipality to develop an IEP for the following three years.

NTI should study the impact of rapid escalation of responsibilities on Inuit individuals in order to better understand the issue and determine if a response is required.

The Parties should agree to an adjustment in the way the target for Inuit employment is calculated. The target for Inuit employment should be:

- Calculated and communicated to key stakeholders annually;
- Designed to incorporate information on the availability of the Inuit workforce;
- Be determined by the Implementation Panel; and,
- Be verified each year by the Implementation Panel.

Government managers should consider varying the target levels of Inuit employment by department in order to improve the chances of meeting an average, overall target.

4.0 IMPACT ASSESSMENT

This section of the report is intended to examine the impact of the Nunavut Land Claims Agreement. The material in this section discusses the selection of appropriate measures, reviews potential sources of information, and presents data where it is available.

This section of the report is only partly successful in meeting this goal. While the impact assessment information does contain an enlightening picture about how life in Nunavut has changed since the ratification of the Agreement, there are several significant shortcomings in what would be desirable in an impact assessment.

Context For The Impact Assessment

An impact assessment is about accountability. The accountability of the Parties' representatives to the Parties' constituents. An assessment of impact of the NLCA is about the accountability of Inuit and government leaders to the Inuit of Nunavut and the citizens of Canada.

On this basis, the Nunavut Implementation Panel has chosen to include an impact assessment of the NLCA in the 5 Year Review. In essence, the impact assessment seeks to answer the question:

- Did the NLCA have the desired results?

In answering this question, the Review Team examined the objectives of the NLCA.

Two Types Of Objectives

In terms of assessing impact, there are two types of objectives stated at the beginning of the NLCA:

- The first type involves the **rights** for Inuit, and can largely be measured by events or the existence of processes; and,
- The second type involves more generalized statements about the **condition** of Inuit and their society, and requires a more detailed analysis of socio-economic indicators.

Section 4.1 examines the impact the NLCA has had on Inuit rights. It was possible to do an impact assessment on these objectives because the objectives were relatively specific, and there was general knowledge of both the baseline and current states of affairs.

Section 4.2 examines the impact of the NLCA on Inuit in socio-economic terms. It was not possible to conduct an impact analysis because there is little or no baseline and current monitoring data. Further, there is no accepted definition of the social and economic norms which are considered desirable by Inuit and Government.

Section 4.3 begins the process of remedying these problems by a framework for relating indicators to the objectives of the NLCA, suggesting specific indicators and sources of information, and providing samples of the data available (to illustrate what is possible).

This section also suggests approaches for implementing the monitoring effort.

4.1 IMPACT ON RIGHTS FOR INUIT

This section of the report assesses the impact of those objectives of the NLCA which provide rights for Inuit.

4.1.1 Certainty and Clarity of Rights of Ownership and Use of Lands and Resources

Primary Question

Is there certainty and clarity of rights to ownership and use of lands and resources (e.g., minerals and specified substances such as carving stone)?

Baseline

Prior to ratification of the NLCA, the ownership of lands and resources was uncertain and unclear. The Federal Government, Territorial Government, municipal corporations, corporate entities, and individuals held ownership of lands and resources that were claimed by Inuit. Governments controlled the use (management, disposition, etc.) of lands and resources, and titled owners received the benefits of ownership.

Indicators	Data Sources
➤ Title to specific surface and subsurface land, specified substances, mines and minerals has been vested in NTI and RIAs.	<ul style="list-style-type: none"> ➤ Interviews and documentation from the Land Titles Office. ➤ Interviews and documentation from NTI. ➤ Interviews with territorial government land managers and Natural Resources Canada.
➤ Seven (7) of 10 business leaders surveyed stated the certainty over ownership of land and resources has increased or stayed the same as a result of the NLCA.	➤ Business Leader Surveys.
<ul style="list-style-type: none"> ➤ A land and resources management regime for the use of IOL has been adopted and publicized by NTI and RIAs. ➤ This land management regime provides for decision-making and control over IOL and the resources (as stipulated in the NLCA) within, upon or under IOL, by Inuit organizations. 	<ul style="list-style-type: none"> ➤ Interviews and documentation from NTI and RIAs land and resource managers. ➤ NTI Rules and Procedures for the Management of Inuit Owned Lands and other governing authorities such as the regional Community Land and Resource Committee manuals. ➤ Interviews and documentation from government land managers.
➤ Inuit organizations, as landowners, receive the benefits of land and resource ownership on IOL (e.g., lease and royalty payments).	<ul style="list-style-type: none"> ➤ Interviews with land and resource managers from NTI and the Federal Government. ➤ Financial statements and other documentation.
➤ Government has generally revised their land management regime to reflect Inuit rights of ownership and use.	<ul style="list-style-type: none"> ➤ Interviews with federal and territorial government land managers. ➤ Review of government land management procedures.

➤ Inuit are accorded preferential consideration in the land and resources management regimes (e.g., access to and enjoyment of IOL; no or minimal fees to Inuit for use or occupancy of IOLs; and exclusive use of carving stone).	<ul style="list-style-type: none"> ➤ Interviews with government land and parks managers. ➤ Interviews with land managers from NTI and RIAs.
➤ The absence of jurisdictional disputes or litigation over the certainty or clarity of rights to land in the NSA (including jointly owned lands under Article 40).	➤ Interviews with land managers.

Observations and Conclusions

Implementation of the NLCA over the review period has generally resulted in clarity and certainty about the ownership of lands. The few exceptions to this conclusion (certain municipal lands and scheduled lands) are noted in Section 2, Status of Implementation Obligations and are expected to be resolved in due course.

The use of lands and resources, while clear in the NLCA, is less certain in governing authorities (policies and procedures) and in practice. The governing authorities necessary to bring clarity and certainty over rights to use lands in the NSA are not fully in place. Specific recommendations are made in Section 2, Status of Implementation Obligations.

The "lease only" result of the referendum held in April, 1995, demonstrates Inuit direction regarding a specific use of land (that is selling or leasing) within municipal boundaries. The Inuit majority had a direct impact on the manner of the disposition of lands within municipalities.

Assessment of Impact
Certainty and clarity of rights of ownership and use of lands and resources
<ul style="list-style-type: none"> ➤ There is certainty and clarity regarding ownership, by Inuit, of lands and resources, as prescribed in the NLCA. ➤ There is certainty and clarity regarding ownership of other lands and resources. ➤ Rights to use lands and resources are now governed by Inuit and government management regimes. As these regimes are more formally and fully defined, certainty and clarity will improve for all stakeholders.

4.1.2 Inuit Rights to Participate in Decision-Making Concerning the Use, Management and Conservation of Lands, Water and Resources

Primary Question

Have Inuit rights to participate in decision-making concerning lands, water, and resources been secured?

Baseline

Prior to ratification of the NLCA, there were no Inuit Owned lands. Inuit did not have identified rights to participate in decision-making concerning lands, water, and resources.

Inuit participation in decision-making was limited and was exercised under government policy and not as a right.

Indicators	Data Sources
➤ A land and resource management regime for IOL and lands and resources owned by the KitlA over which Inuit and their organizations have decision-making control.	➤ Interviews with NTI and the KitlA land and resource managers. ➤ Documentation of the Inuit land and resource management regime (statements of policy, procedural manuals, etc.) for lands and resources owned by NTI and the KitlA on behalf of Inuit.
➤ The enjoyment of the right to have water flow through IOL substantially unaffected in quality and quantity and flow. This indicator was untested during the review period.	➤ In future, documentation of any compensation agreements, decisions of the NWB, and litigation under Article 20.
➤ Inuit participation in the development of government resource management regimes.	➤ Interviews with NTI and government resource managers, and documentation of consultation in the development of specified elements of resource management regimes (e.g., resource royalties).
➤ Nine (9) of 10 business leaders stated Inuit have effective control over most or some important decisions over land and resources.	➤ Business Leader Surveys.
➤ The degree of change in government legislation, policy, and procedures from July 9, 1993 to July 9, 1998.	➤ Interviews with NTI and government resource managers and documentation.
➤ Inuit participation in public institutions which make decisions concerning lands, water, and resources in the NSA. ➤ At the end of the review period, 86% of the board members for the NIRB, NPC, NWB, and SRT are Inuit.	➤ Documentation on the membership of Inuit on the boards of public institutions making decisions concerning lands, water, and resources.

Observations and Conclusions

Implementation of the NLCA over the review period has significantly improved Inuit rights to participate in decision-making concerning lands, water, and resources. This participation is at the territorial, regional, and local levels through various structures established during the review period. Inuit organizations exercise full rights to make decisions over IOLs and Article 41 lands, limited only by specific provisions of the NLCA. Inuit have exercised their rights to nominate or appoint board members to public institutions making decisions related to lands, water, and resources.

NTI, on behalf of Inuit, have expressed concern about the implementation of Article 20, Inuit Water Rights. The comments in their submission lead to the conclusion that Inuit view their participation in decision-making concerning water to be less than expected. Their submission refers to a resource development project which raised transboundary issues for Inuit.

Inuit participation in decision-making related to federal government resource management regimes has improved over the review period. As pointed out in Section 2, Status of Implementation Obligations, and in Section 5, Consultation, there are still uncertainties and disputes concerning the appropriate level of Inuit participation.

It is too early to fully assess the impact of Inuit participation in decision-making concerning the use, management, and conservation of land, water, and resources. Rights of participation in decision-making are being exercised, and Inuit have gained both influence and control. However, the impact on stakeholders outside the Parties has not been assessed. In this regard, decisions by holders of existing interests in land and resources, such as those with grandfathered rights under the Canada Mining Regulations, to transfer their administration from Government to Inuit regimes should be observed.

Assessment of Impact Inuit rights to participate in decision-making concerning the use, management and conservation of lands, water and resources
➤ Inuit have secured direct decision-making over lands and resources on IOL, Article 40 and 41 lands and resources. ➤ Inuit rights to participate in government decision-making concerning the use, management and conservation of other lands, water, and resources have significantly improved.

4.1.3 Provide Inuit with Wildlife Harvesting Rights and Rights to Participate in Decision-Making Concerning Wildlife Harvesting

Primary Question

Have Inuit secured harvesting rights and the right to participate in decision-making concerning wildlife harvesting?

Baseline

Prior to ratification, Inuit were provided with harvesting rights under laws of general application. The territorial government harvesting regime provided for a difference in the harvesting rights of General Hunting License holders (which include Inuit) and other harvesters. Limits to harvesting rights, such as allowable harvest levels or quota, were enshrined in legislation or regulation, and administered by Government. In some cases, Hunters and Trappers Associations were involved in the administration of quota (e.g., sports hunts, commercial harvests).

Governments consulted with and supported Hunters and Trappers Associations in communities and at the regional level. These organizations were open to membership by all harvesters.

Indicators	Data Sources
➤ The harvesting rights of Inuit (individually and collectively) are entrenched and not subject to changes in legislation or government management regime.	➤ The NLCA, governing policies and procedures of Government.
➤ The harvesting rights of Inuit, individually and collectively, are being documented and publicized.	➤ Interviews with the NWMB, and the RWOs, and the HTO surveys. ➤ Documentation related to the assignment of harvesting rights.
➤ Satisfaction with the co-management regime for harvesting.	➤ The NWMB and the RWO interviews and documentation. ➤ Interviews and documentation from government wildlife managers. ➤ HTO survey.
➤ Inuit participation and involvement with public institutions that make decisions concerning wildlife harvesting.	➤ Documentation on appointments or nominations by representative Inuit organizations (e.g., NTI, RIAs) to public institutions having decision-making authority concerning wildlife harvesting (e.g., the NWMB) and Inuit membership on governing boards. ➤ HTO surveys and RWO views on Inuit involvement in the Nunavut Wildlife Harvesting Study and Inuit Bowhead Knowledge Study.

Observations and Conclusions

Inuit harvesting rights are entrenched. As pointed out in Section 2, Status of Implementation Obligations and Section 5, Implementation Issues, laws of general application, many governing authorities and operating procedures used by Government have not changed to reflect the harvesting rights provided to Inuit individually and collectively. The NWMB, RWOs and NTI are working with HTOs to formally document procedures to publicize and guide the exercise of Inuit harvesting rights at the community and regional levels. Differences in understanding of harvesting rights have been reported by the NWMB and RWOs.

Wildlife harvesting in the NSA is now co-managed by Government and the NWMB. The NWMB is an institution of public government and not an Inuit organization. Inuit organizations participate in the appointment or nomination of board members to this decision-making body. The NWMB is directly connected to RWOs and HTOs through the provision of funding and support to these Inuit organizations. RWOs and HTOs commented favourably on their relationship with the NWMB.

Government demonstrated some confusion in distinguishing between NWMB participation or involvement and that of Inuit. As pointed out in Section 2, Status of Implementation Obligations, this needs to be addressed to ensure the intended impact on Inuit participation.

Assessment of Impact Provide Inuit with wildlife harvesting rights and rights to participate in decision-making concerning wildlife harvesting
<ul style="list-style-type: none"> ➤ Inuit have secured harvesting rights. Ensuring a common understanding of these rights will improve over time. ➤ Inuit have exercised rights to participate in decision-making concerning wildlife harvesting at local and regional levels. ➤ Government has not always distinguished between Inuit rights to participate in government decision-making concerning wildlife harvesting and the participation of the NWMB.

4.1.4 Provide Inuit with Financial Compensation

Primary Question

Have Inuit been provided with financial compensation?

Baseline

Inuit had received no financial compensation prior to the ratification of the NLCA.

Indicators	Data Sources
➤ Payment of financial compensation to Inuit collectively is being received as agreed.	➤ Interviews with officials of the Inuit Trust. ➤ Annual financial statements of the Inuit Trust.
➤ Financial payments are made to Inuit individually (e.g., elders pension plan, harvester support program).	➤ Interviews with NTI officials. ➤ Documentation from NTI financial records.

Observations and Conclusions

None.

Assessment of Impact Provide Inuit with financial compensation
➤ Inuit organizations are receiving financial compensation.

Conclusion on Rights for Inuit

The Inuit have received and are exercising the rights contemplated in the NLCA.

4.2 IMPACT ON SOCIAL AND ECONOMIC CONDITIONS OF INUIT

For the purposes of the 5 Year Review, original research was excluded from the original scope of the project. The intent was to rely on the socio-economic information collected under Section 12.7.6 of the Agreement. In fact, very little information was available for the Review under this provision of the Agreement, and this led to alternate methods of acquiring impact information – including a limited amount of original research.

As a result, this section of the report focuses more on:

- How to structure the indicators;
- The choice of indicators; and,
- Cost-effective sources and strategies for acquiring information.

To the extent that information is available, it is included in the analysis.

The intent in the bigger picture is to provide constructive ideas on how to develop objective indicators which can be used to gauge the overall success of the NLCA in achieving its objectives related to Inuit condition.

Much of the discussion centres around the cost-effective choice of indicators and sources of information.

A General Limitation

A general limitation in much of the information presented is that published and internal data is available only for the early years of the review period, while the organizations and provisions stemming from the NLCA have only been operational and effective in the later part of the review period.

In a number of cases, the available data is largely outside the review period or is merely a snap-shot in time (i.e., there is no earlier comparative data). In these cases, the available data is presented as an example of a useful indicator.

The Nature of Other Limitations

Most of the other limitations relate not so much to the difficulty in measuring, or the cost of measuring, but rather to a failure to prepare for the measurement exercise.

Information often exists in a form close to what is required, and information collection channels exist (e.g., routine surveys, internal databases), but there has been no systematic effort to organize the collection effort in advance and relate specific pieces of information to the objects of the NLCA.

The Parties have not refined the broadly stated objectives adopted by the Parties into definitive and measurable objectives.

With respect to an impact assessment of the NLCA, there is little baseline information. There are no measurement systems in place to gain a picture of current status.

Further, there is no available measurement of the overall resources dedicated to the implementation effort. A consolidated financial picture aggregating the implementation

expenditures of every party would be needed in order to complete a picture of cost-effectiveness.

An attempt to perform an impact assessment in light of these factors will necessarily be limited in its scope.

This being the case, the balance of Section 4 provides a discussion on what and how to measure. The following topics are discussed:

- A framework for measuring and assessing impacts;
- Suggestions on the information elements to be measured;
- Snapshots of information on the suggested variables, where available; and,
- Suggestions on cost-effective sources and strategies for acquiring information.

In practice, these suggestions should be viewed as a starting point for discussions between the Parties. Ultimately, the Parties should decide what impacts are important to their constituents.

4.2.1 Structure of the Measurement Exercise

This section of the report looks at which indicators might be appropriate for measuring the impact of the NLCA.

In considering what needs to be measured in order to make an assessment of the NLCA's impact on Inuit in Nunavut, it is necessary to consider what the NLCA was intended to accomplish.

The ongoing objectives of the NLCA include:

- Providing Inuit with rights to participate in certain types of decision-making;
- Providing Inuit with the means of participating in economic opportunities; and,
- Encouraging self-reliance and the cultural and social well-being of Inuit.

It then makes sense to structure the measurement exercise and the specific indicators around these objectives.

It may well be that the Parties feel it is useful to measure performance versus other high level objectives as well. This idea is not explored in this report, however, it would be appropriate for the Parties to confirm what they want from the NLCA before finalizing any initiative to improve the measurement of results.

The Need for Baseline Information

Concurrent with determining what to measure is a need for baseline information.

The essence of an assessment exercise is often to determine if progress is being made. In order to determine progress, there is a need to determine a benchmark or baseline from which progress will be measured.

A number of the indicators proposed in the balance of Section 4 require some form of baseline information, information which is not currently available. This speaks to a need to develop a body of baseline information.

4.2.2 Suggested Framework of Indicators

The following sets of indicators are suggested as a starting point for the discussions on what should be measured to assess the social and economic condition of Inuit:

Means of Participating in Economic Opportunities

- The Vitality and Success of Inuit owned Businesses
- Employment Opportunities
- Training Opportunities
- Opinion Data on Business Sentiment
- General Levels of Economic Activity
- Levels of Government Funding

Self-Reliance

- As Individuals
(educational attainment, employment levels, harvesting, land skills)
- As a Society
(participation in decision-making, availability of services)
- Inuit Self-Perceptions – Opinion data

Cultural and Social Well-Being

- Cultural Well-Being – Opinion data
(language use, preservation of history, use of traditions)
- Cultural Well-Being – Quantitative analysis
- Social Well-Being – Opinion data
- Social Well-Being – Quantitative analysis
(drug & alcohol use, drop-out rate, crime rates, health statistics, housing conditions)

Indicators as Indirect Measures

The indicators suggested in this part of Section 4 are not always directly related to one of the overall objectives. Sometimes it is not always possible to acquire the best possible measure, and it is necessary to instead use an indicator for which information is available and which is likely to correlate well with the intended measure. In other words, a proxy indicator.

For example, the rate of business formation may be one measure of Inuit acquiring the means to participate in economic opportunities. As there is not a direct measure of the businesses starting up in Nunavut, the number of business name registrations is used as an imperfect but still useful indicator of the rate of business formation.

Reliance is placed on the collection of indicators to reduce the risk that any one indicator will lead to the wrong conclusions.

4.3 SOURCES OF INFORMATION

This section of the report looks at the sources of information in this report, including:

- Original research;
- Existing sources;
- Results of interviews and documentation gathered in support of Section 2; and,
- The Nunavut Module of the 1999 Labour Force Survey.

4.3.1 Original Research

The original research included surveys of HTO representatives, cultural leaders, and business leaders. The figure below indicates the number and distribution of the surveys.

Figure 4.1 - Number of Surveys Conducted

Response	HTOs	Cultural Leaders	Business Leaders	Total
Baffin	8	4	5	17
Keewatin	4	3	4	11
Kitikmeot	4	3	4	11
	16	10	13	39

The results of the survey questions are presented as part of the discussion on each indicator. No attempt was made to achieve statistically valid samples.

HTO Surveys

The number of responses represents approximately one half of the HTOs. The questions were prefaced with a short introduction about the 5 Year Review, and respondents were then asked for their observations over the last five to six years.

The HTO survey consisted of 27 questions. A small number of the questions were designed to provide information related to specific obligations, and the answers to these questions have been incorporated into the status reports in Section 2.

Cultural Leader Surveys

Cultural leaders from the Baffin, Keewatin, and Kitikmeot were asked seven questions about language and cultural matters in Nunavut. The sample size is small and is intended to illustrate the type of information that could be gathered as much as it is intended to provide a picture of cultural conditions.

There were 11 respondents in total. Not all respondents answered each question.

Cultural leaders were selected by an Inuit leader for their knowledge of language and cultural matters in Nunavut.

Business Leader Surveys

Business leaders from the Baffin, Keewatin, and Kitikmeot were asked six questions about conducting business in Nunavut. The questions were prefaced with a short introduction about the 5 Year Review, and respondents were then asked for their observations over the last five to six years. The sample size is small and is intended to illustrate the type of information that could be gathered as much as it is to provide a picture of business conditions.

There were 13 respondents in total. Not all respondents answered each question. Respondents were allowed to provide multiple responses to some questions.

Business leaders were selected by an Inuit leader for their knowledge of the business environment in Nunavut.

4.3.2 Other Sources of Information

The following sources of existing information were used to acquire information on the Inuit condition in Nunavut:

- GNWT Bureau of Statistics, routine publications;
- GN Bureau of Statistics, routine publications;
- Labour force surveys;
- Special surveys and publications (e.g., the Drug and Alcohol Survey);
- RCMP (i.e., for crime statistics);
- Departmental information systems (e.g., housing conditions);
- DIO information systems (e.g., Inuit owned businesses);
- Annual government reports (e.g., on Inuit employment); and,
- Annual reports (e.g., Inuit decision-makers).

Overall, there is a substantial amount of existing information. The issue is the coherent assembly of this information.

4.3.3 Nunavut Module of the 1999 Labour Force Survey

Information from the Nunavut Module of the 1999 Labour Force Survey, the most recent information on a range of social condition topics, has been included as Annex D. This information has been provided on a timely basis, courtesy of the Nunavut Bureau of Statistics.

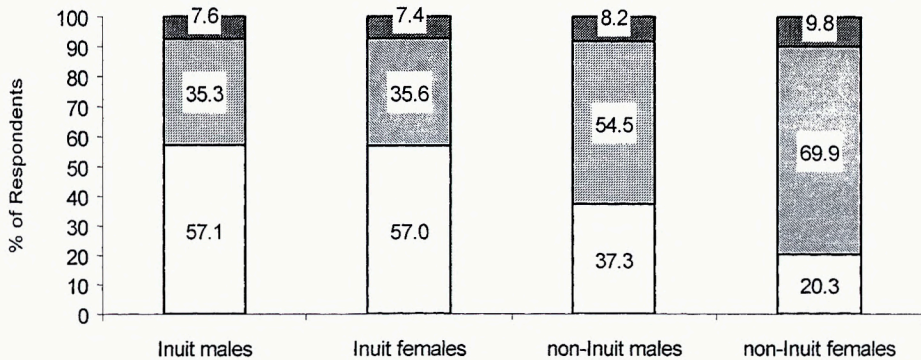
4.4 ANALYSIS OF INDICATORS

This section of the report examines individual indicators, how information may be acquired, and presents the available data.

Although not directly related to one of the suggested indicators, one question in the Nunavut Module of the recently completed 1999 Labour Force Survey is of interest. The question asked was:

- Would you say that the implementation of the Nunavut Land Claim has had a ... impact on your life?

Figure 4.2 - Impact of the NLCA
(taken from Annex D)



Source: Nunavut Bureau of Statistics, 'Nunavut Add-On' to the 1999 Labour Force Survey.

4.4.1 Measuring the Means of Participating in Economic Opportunities

The Vitality and Success of Inuit Owned Firms

Number of Inuit Owned Firms: NTI maintains a record of these organizations and can provide a count in total, by region and by community. An analysis by type of business might also provide insights into additional opportunities for Inuit business.

Based on information from NTI's list of Inuit firms, there are 224 firms and individuals registered to take advantage of the NLCA's preference provisions.

Figure 4.3 - Registered Inuit Owned Businesses

Region	Number
Baffin	88
Keewatin	68
Kitikmeot	53
Non-Regional (outside Nunavut)	15
	224

Additional Insights from Inuit Owned Firms: With only modest additional effort, the current reporting mechanism could be used to produce additional information, such as:

- The number of businesses by size of community; and,
- The number of businesses by type of business.

Extending this concept further, it is possible to gather a small amount of well-targeted information from Inuit owned firms. This information could provide insight into:

- Bidding success of Inuit owned firms;
- Revenue and employment volumes;
- The business environment faced by Inuit firms; and,
- Common opportunities and barriers to success.

The mechanics of acquiring this type of extended information could be as simple as having each firm fill out a single page of questions, as part of an annual renewal of their registered status. This would be a reasonable balance between the need for information, and the need to keep the paper burden low. The need for confidentiality could also be addressed.

This type of information will also be important in the review of Article 24 required under 24.8.1 and for 24.9.3. At present, Inuit businesses are roughly one third of the way through the maximum 20 year time-frame allowed for the review of Article 24. The sooner the collection of this information begins, the more effective this review will be, and the more effective Inuit businesses can be in exploiting the advantages of Article 24.

This information would also be useful to those parties that are advocating on the behalf of Inuit business.

Employment Opportunities

Total Employment and Labour Force: Figure 4.4 shows the number of jobs available in Nunavut (assuming all available jobs are filled), the size of the labour force (as calculated by in the Labour Force Surveys), and the number of jobs available for each individual in the labour force.

While there are some weaknesses in this approach, and the employment and labour force data is not typically viewed in this way, it is useful to contrast the number of employment opportunities to the number of people available for work.

Figure 4.4 - Jobs Versus Labour Force

Survey	Number of Jobs	Labour Force	Jobs per Individual
1999	8,646	10,904	0.79
1994	7,417	9,477	0.78
Increase	17%	15%	

Other Employment Opportunity Measures: Opinion data from a stable of employers prepared to participate in an annual exercise could provide insights on:

- The likelihood of finding qualified Inuit staff;
- Turnover rates; and,
- Position vacancies.

A further measure of employment opportunity could come from tracking employment advertisements by technical field and organization level. Tracking success in filling these jobs with Inuit could provide more insights.

Training Opportunities: Information exists in territorial government records on:

- The number of apprenticeship positions available;
- The number of college-level and technical training positions offered each year; and,
- The numbers and proportions of students and graduates from:
 - High school;
 - College; and,
 - University.

Figure 4.5 - Education Opportunities

Indicator	95/96	96/97	97/98
Schools	38	39	39
Grade School Students	7,464	7,648	7,770
High School Graduates	61	67	n/a

n/a = not available

Opinion data could be used to gather employer information on the general size of training efforts, as well as the need for training. Integrating this research with other data to be gathered from employers can help reduce the overall effort required.

Opinion Data on Business and Employer Sentiment

Degree of Certainty: Certainty in the business environment is often an important determinant of the willingness to participate in economic opportunities. While there is a range of issues which influence certainty, the NLCA is one of the more significant influences in Nunavut. Further, creating certainty is one of the high level objectives of the NLCA. Certainty in relation to ownership of lands and resources was discussed in Section 4.1.

Business leaders in Nunavut were asked the following question:

- Has the Land Claim increased or decreased certainty over the ownership of land and resources?

Figure 4.6 - Increased or Decreased Certainty

Response	Percent
Increased	2
Stayed the Same	5
Decreased	3
	10

Other Opinion Data on Business and Employer Sentiment: Other potential choices include:

- The development of Inuit business skills;
- Observations on Inuit success in business;
- Investment perceptions; and,
- Hiring and capital expenditure plans.

With respect to Inuit business skills, business leaders were asked the following questions:

- Have Inuit developed more business skills over the last six years?
- If so, what has caused the increase in business skills?

Figure 4.7 - Inuit Business Skills

Level of Skills		Causes	
Response	Number	Response	Number
More	9	Provisions in the Land Claim	5
Stayed the Same	2	Government Programs	5
Less	1	Other Reasons	3
	12		13

Other causes for Inuit developing more business skills included an increase in education and a larger population that was creating more opportunities.

With respect to opportunities and likelihood of success, business leaders were asked the following question:

- Do Inuit business people have more business opportunities and are they more likely to be successful than six years ago?

Figure 4.8 - Opportunities and Likelihood of Success

Opportunities for Inuit		Likelihood of Success	
Response	Number	Response	Number
More	6	More	7
Stayed the Same	3	Stayed the Same	2
Less	3	Less	3
	12		12

With respect to observations on success, business leaders were asked the following questions:

- Have you observed Inuit people being successful in business?
- If some success has been achieved, what are the reasons?

Figure 4.9 - Observations on Success

Degree of Success		Reasons	
Response	Number	Response	Number
Widespread	5	Provisions in the Land Claim	7
Some Success	4	Government Programs	2
Minimal or None	1	Other Reasons	3
	10		12

Other reasons cited for Inuit success in business included personal determination and the fact that some Inuit businesses were successful before the NLCA.

With respect to investment perceptions, business leaders were asked the following question:

- Do you feel the Inuit have effective control over the land and resources in Nunavut?

Figure 4.10 - Perceptions on Inuit Control of Land and Resources

Response	Number
Yes, Inuit control most decisions	5
Partly, Inuit control some of the important decisions	4
No, Inuit control only a few important decisions	1
	10

A second question on investment perceptions was asked, as follows:

- Is it necessary to have an Inuit partner to be successful in doing business in Nunavut?

Figure 4.11 - Need for Inuit Partners in Business

Response	Number
Yes	5
No, but it helps a lot	6
No	1
	12

To the extent that an Inuit-first psychology has been introduced into the investment climate, the NLCA can be seen as successful in promoting Inuit participation in economic opportunities.

General Levels of Economic Activity: Another way to consider whether Inuit have access to economic opportunities would be to look at a selection of general levels of economic activity, such as those suggested in the figure below.

Figure 4.12 - Selected Indicators of Economic Activity

Indicator	Source of Information
Business Formation Rates	Legal Registries Office
Business Services Available	Chambers of Commerce, Hamlets
Announced or Active Major Projects	Media Tracking Services
Resource Exploration Permits	DIAND
Tourism Volumes	Sustainable Development
Aircraft Landings and Cargo Volumes	NavCanada
Sealift Volumes	Coast Guard
Key Tax Rates	Finance Department

Using business formation as an example, the legal registries office reports the following numbers of business names were registered with Nunavut addresses:

Figure 4.13 - Business Name Registrations

Year	Business Names	Partnerships	Total
1995	53	11	64
1998	48	16	64

In addition to a comparison with earlier time periods, it can be useful to compare to other jurisdictions. As a comparison, the same indicator of business formation rates in the western NWT during the same years (1995 and 1998) were five to six times higher.

Levels of Government Funding

An analysis of available government funding, both federal and territorial, can be compiled. This information can be compiled for both economic development and training programs.

4.4.2 Measuring Self-Reliance

Self-Reliance as Individuals

Educational Attainment: The figure below shows the highest level of schooling for that portion of the general Nunavut population over 14 years of age.

Figure 4.14 - Educational Attainment

Year	1999	1996	1991	1986
Grade 0 to 8	5,491	4,790	5,510	6,125
Grade 9 to 11	4,301	3,395	2,065	2,275
High School Diploma	1,217	635	570	425
Diploma or Certificate	3,539	4,890	3,675	1,590
University	1,405	1,725	1,285	1,010
	15,953	15,435	13,105	11,425

Note: Variations in the definitions of educational attainment may exist between 1999 and previous years.

For 1999 and subsequent years, this type of analysis can be performed for Inuit and the general population of Nunavut.

Employment Levels: The graph below has been drawn from the 1999 Labour Force Survey and provides a summary of changes in the labour force over the last ten years.

Figure 4.15 - Change in Labour Force Measures



Inuit Harvesting: Information collected by the NWMB Harvest Study can be used to provide insights on how meat is harvested, and indicate how self-sufficient individuals and communities are.

Inuit Land Skills: Representatives from the HTOs were asked the question:

- When it comes to living and travelling on the land, would you say that the skills of Inuit in your community have increased or decreased compared to six years ago?

Figure 4.16 - Inuit Land Skills

Response	Number
Increased	7
Stayed the Same	5
Decreased	3
	15

Skill Sets: It may be possible to acquire literacy and numeracy data by skill level. Adult Educators at the community education centres administer Adult Basic Education (ABE) testing on a regular basis and may have useful data to contribute.

Inuit Owned Businesses - Individuals: Through NTI's registry of Inuit owned firms, it should be possible to identify how many individuals are self-employed, as one indicator of self-reliance.

Self-Reliance as a Society

Inuit Decision-Makers: A profile of Inuit decision-makers in key roles could be developed from public information such as annual reports. This profile could include separate analyses for:

- Elected Officials;
- Board Members (of the various bodies in Nunavut);
- Executive Managers; and,
- Staff (including IPGs, DIOs, the GN, and the Federal Government).

As an example, the Board membership of the implementing bodies of the NLCA can be analyzed as follows:

Figure 4.17 - Inuit Board Members – Implementing Bodies

Implementation Body	Total Members	Inuit Members	Inuit Percentage
Arbitration Board	9	2	22%
Impact Review Board	9	7	78%
Implementation Training Committee	7	7	100%
Planning Commission	8	8	100%
Water Board	8	7	88%
Wildlife Management Board	9	6	67%
Surface Rights Tribunal	5	4	80%
	55	41	75%

Community Services: A profile of basic services available within each region and community could be assembled to provide a picture of how well Nunavut is being served. An analysis of 10 to 20 services (beyond municipal services) that are helpful in allowing a community to flourish could be compiled for each of the communities of Nunavut from data currently with hamlets, chambers of commerce, and NTI's list of Inuit owned firms.

Opinion Data on Self-Perceptions: Inuit and Inuit leaders could be queried on how they see themselves interacting with the world around them, with questions on:

- Perceptions on being empowered and in control of their lives;
- The obstacles faced; and,
- Control over key decisions.

For example, representatives of the HTOs were asked the following question:

- Does your HTO have more or less control over wildlife decisions than it did before the Land Claim?

Figure 4.18 - HTO Control over Wildlife Decisions

Response	Number
More	14
The Same	0
Less	0
	14

4.4.3 Measuring Cultural and Social Well-Being

Cultural Well-Being – Opinion Data: Cultural leaders and HTO representatives were asked questions about:

- Language use;
- Preservation of history; and,
- Use of traditions.

The following question was asked of both cultural leaders and the HTO respondents:

- Has the use of Inuktitut/Inuinaqtun increased or decreased in the last six years?

Figure 4.19 - Use of Inuktitut/Inuinaqtun

Response	HTOs	Cultural	Total	Percent
Increased	3	5	8	32%
Stayed the Same	10	4	14	56%
Decreased	3	0	3	12%
	16	9	25	100%

The following question asked for two responses, and was asked of both HTO respondents and cultural leaders:

- Has the Nunavut Land Claim helped Inuit language and culture?

Figure 4.20 - NLCA Impact on Language

Response	HTOs	Cultural	Total	Percent
Helped	16	9	25	96%
No Impact	0	1	1	4%
Hurt	0	0	0	0%
	16	10	26	100%

Figure 4.21 - NLCA Impact on Culture

Response	HTOs	Cultural	Total	Percent
Helped	16	9	25	96%
No Impact	0	1	1	4%
Hurt	0	0	0	0%
	16	10	26	100%

The following question asked for two responses, and was asked of both HTO respondents and cultural leaders:

- Are elders respected and looked after more or less than they were six years ago?

Figure 4.22 - Respect for Elders

Response	HTOs	Cultural	Total	Percent
More	7	2	9	35%
The Same	9	7	16	61%
Less	0	1	1	4%
	16	10	26	100%

Figure 4.23 - Care for Elders

Response	HTOs	Cultural	Total	Percent
More	8	3	11	42%
The Same	8	7	15	58%
Less	0	0	0	0%
	16	10	26	100%

The response to these two questions often contained a comment along the lines of, “We have always respected our elders and that will not change.”

The following question was asked of both HTO respondents and cultural leaders:

- Has the preservation and communication of Inuit history increased or decreased in the last six years?

Figure 4.24 - Preservation and Communication of History

Response	HTOs	Cultural	Total	Percent
Increased	3	5	8	30%
Stayed the Same	11	5	16	59%
Decreased	2	1	3	11%
	16	11	27	100%

The following question was asked just of HTO respondents:

- In your community, has the number of Inuit involved in traditional activities increased or decreased compared to six years ago?

Figure 4.25 - Inuit Involvement in Traditional Activities

Response	Number
Increased, there is more involvement	5
Stayed the Same	8
Decreased, less involvement	3
	16

The following question was asked just of cultural leaders:

- Has the number of Inuktitut/Inuinaqtun programs in the media increased or decreased in the last six years?

Figure 4.26 - Volume of Inuktitut/Inuinaqtun Programs

Response	Number
Increased	5
Stayed the Same	4
Decreased	2
	11

The following question was asked just of cultural leaders:

- Has the number of Inuit cultural products (such as art, music, events, books) increased or decreased in the last six years?

Figure 4.27 - Volume of Inuit Cultural Products

Response	Number
Increased	5
Stayed the Same	4
Decreased	2
	11

The last question asked of cultural leaders was open-ended:

- Can you give me any examples of how the Land Claim has helped the well-being of Inuit culture?

The majority of respondents had difficulty in identifying specific examples, however, the following comments were received:

- Increased pride, morale, and esteem about being an Inuk (3);
- Support and payment programs for hunters and elders (2);
- There are more camps/events for elders and youth;
- More subsistence hunting takes place;
- Provides a collective voice for Inuit;
- Recognition of rights; and,
- More jobs are available.

Cultural Well-Being – Quantitative Analysis: It would be useful to develop a profile of the volume and availability of products that could be thought of as Inuit cultural products. The number of products produced in the Inuit language, produced primarily by Inuit, and of particular interest to Inuit could be monitored through a media tracking service.

The items to be tracked could include:

- Number of Inuit products:
 - Art;
 - Literature and thought;
 - Music; and,
 - Events.
- Availability in the media:
 - Hours of radio;
 - Hours of television;
 - Internet content; and,
 - Print coverage.

Social Well-Being – Opinion Data: The 1996 Drug and Alcohol survey presented what could be used as baseline data on a key social well-being issue in Nunavut.

Figure 4.28 - Drug and Alcohol Behaviour in Nunavut

Behaviour	% of Respondents		
	Inuit	Non-Inuit	Canada
Consume five or more drinks, when drinking	25.1	21.3	8.8
Drink at least once a week	12.0	34.7	34.9
Used marijuana or hash in the past 12 months	32.5	14.4	7.4
Used LSD, cocaine, or heroin in the past 12 months	6.5	2.1	1.5
Ever sniffed solvents or aerosols	25.6	2.6	0.8

Social Well-Being – Quantitative Analysis: Profiles can be built on several key indicators, such as those suggested in the figure below.

Figure 4.29 - Selected Indicators of Social Well-Being

Indicator	Source of Information
Crime rates	RCMP, Statistics Canada
Drop-out rates	Territorial government departments
Health statistics (e.g., birth weights, FAS)	Territorial government departments
Housing conditions	Territorial government departments
Social assistance volumes	Territorial government departments

As an example, Nunavut’s experience with crime since the signing of Nunavut can be summarized as follows:

Figure 4.30 - Nunavut Crime Trends

Type of Crime	1997	1996	1995	1994	1993
Violent	1,472	1,437	1,409	1,600	1,394
Property	1,457	1,792	1,904	1,715	1,818
Other	2,467	2,522	2,810	2,445	2,586
Drug-related	160	175	191	142	185

As an additional example, 1996 housing needs in Nunavut were summarized as follows:

Figure 4.31 - Households with Housing Problems

Region	Type of Problem				
	Suitability	Adequacy	Afford.	Multiple	Total
Baffin	451	242	139	212	1,044
Keewatin	248	98	43	71	460
Kitikmeot	209	70	32	55	366
	908	410	214	338	1,870

4.5 IMPLEMENTATION CONSIDERATIONS

Generating the appropriate monitoring information is not something that can be done effectively on a periodic basis (i.e., every five years). Information baselines and gathering processes need to be in place on an ongoing basis if a clear and comprehensive picture of implementation results is to be developed.

The Monitoring Effort in Perspective

Monitoring costs money. However, there is no substitute for data when trying to manage effectively. Relative to the cost of the implementation effort, and considering the consequences of managing without knowing whether you are succeeding, a modest investment in monitoring is likely money well-spent.

Strategies for a Cost-Effective Monitoring Effort

The expense of such a monitoring effort will vary significantly depending on how well it is managed and organized.

Expectations on the quality of information should be stated at the outset. There should be a tolerance (and disclosure) of minor inconsistencies as long as effective management decision-making information is produced.

Effective partnering will be a key success factor in the monitoring effort. It will be necessary to develop arrangements with a broad range of information sources. These arrangements would set out the nature and timing of information to be provided and would form the basis of an efficient data-gathering effort.

A well-thought out cycle of data-gathering, assembly, and release (perhaps over a two year cycle) would provide both timely information and an efficient monitoring effort.

Funding the Monitoring Effort: Article 12.7.6 states:

“There is a requirement for general monitoring to collect and analyze information on the long term state and health of the ecosystemic and socio-economic environment in the Nunavut Settlement Area. Government, in co-operation with the NPC, shall be responsible for developing a general monitoring plan and for directing and coordinating general monitoring and data collection.”

To the extent that there is a need for central coordination, the Panel could lead the monitoring effort (particularly during the set-up phase), and costs would be absorbed as part of the Panel's implementation management activities.

The Territorial Government would provide its staff with a mandate to support the data collection effort, with funding provided as needed on specific issues (e.g., to extend the scope of existing data-gathering efforts).

Organizing the Monitoring Effort

Considering the amount of set-up and baseline work to be done, consideration should be given to two parts: a set-up phase and an ongoing operating phase.

Article 12.7.6 indicates a role for the NPC, although this is not spelled out in detail. The best approach may be to set up the monitoring effort to the satisfaction of the Panel and, after two years, consider what role might be appropriate for the NPC.

In setting up the monitoring effort, it would be useful to have the Panel task a working group to determine the desired outcomes, agree to a set of indicators, and arrange the logistics of collection and assembly.

4.6 OVERALL CONCLUSIONS AND RECOMMENDATIONS

Conclusions

The Inuit have received and are exercising the rights contemplated in the NLCA.

At present, it is not possible to arrive at conclusions on the impact the NLCA has had on the social and economic condition of Inuit in Nunavut.

It is possible to gather the information required to make such an assessment, and it is possible to do so in a cost-effective manner.

Recommendations

The Parties should decide what definitive and measurable objectives they wish to assess in gauging the impact of the NLCA.

The Parties should assign responsibility for collecting the required impact assessment information.

The Parties should develop partnerships and strategies for acquiring the necessary information.

The Parties should establish a current baseline for the impact assessment indicators chosen by the Parties.

5.0 IMPLEMENTATION ISSUES

The previous three sections of the report have identified a substantial number of areas where implementation results could be better. With Section 5.0, the discussion turns to an examination of the systemic problems that were observed and what to do about them.

This section of the report discusses the general and cross-cutting issues related to implementation of the obligations in the Agreements. These issues do not relate directly to individual obligations. Instead, these issues deal with the operating environment, processes, and mechanisms that influence the success of implementation activities.

The discussion on each issue includes the observations of the Review Team; the implications of those observations; conclusions; and recommendations on how better results can be achieved in the future.

To provide some sense of flow to the recommendations coming out of each issue, the issues have been grouped according to the following topics:

- The context for successful implementation;
- Implementation Panel issues, related to:
 - Role and Responsibilities
 - Planning and Organizing
 - Operating
 - Reporting
 - Corrective Action
 - Commitment and Resources;
- Organizing for implementation (beyond the Panel); and,
- Other issues.

The recommendations flowing from each issue are intended to work together as an integrated solution for better implementation results. When reading through each issue and its recommendations, it is important to consider how potential obstacles to change might be addressed. In a number of cases, it is likely that the recommendations from several issues will need to work in concert in order to achieve the goal of improved implementation results.

Further, the discussion and recommendations in this section are intended to provide a practical framework for improvement. The recommendations are not intended to be overly detailed or prescriptive. Rather, the intent is to provide a sensible set of solutions with enough thought to confirm the feasibility of the framework.

Wherever possible, the recommendations developed in this section build on existing structures and processes contemplated in the Agreements. Where it has been necessary, in order to achieve an effective and workable set of recommendations, the Review Team has assumed a modest license to go beyond the current implementation structures.

5.1 THE CONTEXT FOR SUCCESSFUL IMPLEMENTATION

During the research and discussions, the Review Team noticed several aspects about the operating environment and the general approach to operating that create difficulties in achieving implementation results. These issues are discussed under the following topics:

- An Active Management Model;
- Joint Implementation; and,
- The Separation of Implementation and Negotiation.

5.1.1 An Active Management Model

The Review Team observed a lack of planning and direction. While there is evidence of planning and sometimes good execution, there were often gaps in time and responsibilities noted in the discussions with stakeholders and documentation examined by the Review Team.

The most frequently cited documentation for implementation planning is the Implementation Plan, a static document now some six years old. More details on this issue can be found in Section 5.2.3, An Annual Implementation Plan. For the moment, the point is the lack of a useful implementation plan as a management tool.

In other cases, efforts by individual offices or parties to create plans and manage based on these plans were sporadic. These efforts often failed to fully consider the need to involve representatives of the other Parties, faltered as a result of turnover, and in some cases were restarted several times over the review period.

Further, there have been only modest efforts at pro-active management in recent years. Management roles performed by the Transition Teams in the early years and later by the Implementation Working Group helped. However, in recent years there has been little systematic, centrally coordinated effort to take charge of the events and ensure a satisfactory result is achieved.

Delays in the initial implementation also indicate a lack of planning. Most of the factors leading to the key delays could have been mitigated with active intervention by someone with project management skills.

A review of the Implementation Panel's documentation indicates an approach which is more passive and reactive. Problems are managed on an exception basis.

A passive or exception approach to management is not appropriate in the operating environment (i.e., the implementation environment of the NLCA) which is predicated on making wide-spread change. A passive approach may become appropriate in the future once there is a well-documented consensus on substantial completion. However, this is not currently the case.

We would also observe that an undertaking of the size, scope, and complexity of the implementation of the NLCA would normally have a formal project management process and a Project Manager. The fact that each of the Parties is an independent entity adds an additional element of complexity, however, it does not change the need to manage a complex set of interrelated tasks.

The implications of the lack of management include fewer results than should have been achieved, the consumption of implementation resources at a proportionately higher rate than the achievement of results, and a lack of accountability for results (or the absence of results).

Recommendations

The Parties should commit to using an active management model, including:

- An up-to-date and effective implementation plan;
- A manager dedicated to seeing that all aspects of the claim are implemented;
- The anticipation of problems and timely direction;
- Consistent and timely reporting;
- Consistent and timely definition and resolution of concerns; and,
- Well thought-out and timely decisions by the Parties.

The Parties should commit to resolving disputes in a timely fashion, using the suggested dispute resolution process (see Sections 5.2.10, 5.2.14, and 5.3.4).

5.1.2 Joint Implementation

Identification and Monitoring

At present, the Parties each identify and monitor their own obligations using separate systems and, for the most part, in isolation of the other Parties and implementing bodies. This creates two concerns.

The first concern is that there has been no examination of who is responsible for which objectives. There may be obligations that have slipped between the three separate lists.

Secondly, there is no control mechanism or consensus on whether there has been genuine satisfaction of an obligation. A basic tenant of good management is that when work is performed it should be independently validated, or at least jointly validated. It is not sufficient for the party performing the work to unilaterally declare it is complete.

A sample of the status statements in the federal system for tracking obligations confirmed a number of weak or inadequate statements relative to the satisfaction of obligations. The GNWT system is better, but lacks validation by the other Parties. NTI does not appear to have a systematic means for tracking its responsibilities.

The Parties need a process for jointly identifying, monitoring, and agreeing on the status of individual obligations.

The Implementation Working Group

An Implementation Working Group (the Working Group) was set up to manage implementation issues at a technical level. This group was comprised of managers from each of the three Parties to the Implementation Contract. The Working Group had good success in creating awareness of responsibilities, resolving potentially contentious matters, and finding practical ways of making the administrative systems of the three Parties work together.

The work of this group was effectively brought to a halt when NTI questioned the rationale and framework for using such a group. The questions posed were reasonable, as there was no stated framework in place. The panel did not address the issues raised by NTI's questions and an effective means of implementation was seriously degraded.

The Working Group approach is effective. The current efforts by the Implementation Panel to define its role need to be continued and extended to include the functions of the Working Group and, potentially, ad hoc groups of managers in a particular area of expertise.

Harmonizing Different Perceptions and Needs

The Review Team often found significant differences between the Parties (and implementing bodies) in perceptions regarding the same event or obligation. In many of these cases, the documentation available was insufficient to conclude what had in fact happened, or what the issues of disagreement were.

We found considerably more instances where the Parties worked in isolation and at a distance (both geographically and in terms of process). In cases where contact was largely formal, rigid with pre-set positions, and confined to matters of who was responsible for what, a roadblock often developed.

In cases where there was close collaboration between colleagues (this was observed most often in technical fields of endeavour such as archaeology), there was a higher degree of success in implementation and resolving problems, and fewer resources wasted in arguing about differences of opinion.

While a comment can be made regarding which comes first, collaboration or agreement, it is unlikely much implementation progress will be made without joint efforts and a joint understanding about the issues that are important to each Party.

The absence of joint efforts is more likely to lead to unresolved issues. The use of close working relationships and collaborative efforts increases the likelihood of finding those avenues of implementation that are acceptable to all Parties.

PreRequisites for a Collaborative Approach

Inherent in a collaborative approach is an interest in understanding each Party's concerns about a particular subject and a desire to find an acceptable solution for each Party.

A collaborative approach also assumes that each Party delegates an appropriate amount of authority to its representatives to enable joint decision-making.

Information sharing is also an important determinant of collaborative success. Transparency of motives, the availability of resources, and the priority attached to each issue can remove many of the barriers to implementation progress.

Recommendations

The Parties should commit to a joint implementation approach, including:

- Jointly identifying obligations and tracking their status;
- Using all-party working groups of front-line managers as the first step in achieving implementation results; and,
- Using a collaborative approach to explore for options that are suitable to each Party.

5.1.3 The Separation of Implementation and Negotiation

During the interview process, the Review Team heard concerns about the desire of some offices within each Party to continue to negotiate for more benefits or to effectively claw back benefits which were negotiated as part of the Agreements. Some of the documents provided to the Review Team could be interpreted as indications of a continuing desire to negotiate.

The community of the Inuit and the community of the citizens of Canada can choose to continue a dialogue if they so desire. The problem arises when the implementation process, and in particular the Implementation Panel (which is the only institutionalized point of contact at present), is used as a forum to conduct further negotiations.

This can lead to breakdowns in the implementation process beyond the issue in dispute, delays in Inuit receiving the benefits of the NLCA, and the consumption of implementation resources without results. Ultimately it leads to the breakdown of the working relationship between the Parties and other agencies and organizations involved with implementation.

A further complication is the challenge of distinguishing between those items which require interpretation, with relatively minor impact on each Party, and those issues where there is a fundamentally different understanding about what was intended and a substantially different impact on the Parties. This is an inherently difficult matter to discern.

While there is no simple solution to this challenge, a good implementation management process will go a considerable way in differentiating between what can be managed within the implementation process (without leading to dysfunction), and what needs to be elevated beyond the implementation effort (potentially into the realm of legal and political negotiations).

In addition to a well-defined process, potential solutions include an independent implementation effort and a clear separation of implementation and negotiating responsibilities within each Party. Neither of these options are proven solutions to the problem of negotiations inhibiting implementation activities. However, both are likely to contribute to the solution and are explored further in upcoming sections.

Recommendations

The Parties should commit to separating implementation and negotiating issues by:

- Defining a clear implementation management process, including the formal hand-off of issues when there is a need for negotiations between the representatives (e.g., legal and political) of each Party;
- Adding a degree of independence and neutrality to the implementation management process; and,
- Separating the implementation and negotiating functions within their organizations.

5.2 PANEL ISSUES

This section of the report deals with a lengthy list of issues related to implementation activities and how the Panel operates.

Section 2.0 concluded that implementation progress should have been better, considering the investment of time and resources. Further, completing a series of tasks is often more difficult than beginning the tasks. Completing and sustaining results (as in the case of the ongoing obligations) can be the more difficult aspect of implementation, and typically requires a more structured effort.

Considering these facts, it seems reasonable to look at how changes to the implementation process might bring about better results in the next five years.

The Panel has been chosen as the focus for improved management efforts for two reasons:

- The Panel is the institutionalized point of contact for resolving difficulties; and,
- In a number of instances, the Panel process has demonstrated that it can result in good communication, pro-active measures, and practical solutions.

This lead the Review Team to believe the Panel is an appropriate locus for many of the recommendations on improved management practice. In making its recommendations, the Review Team has taken a modest license in a few areas in order to achieve a complete and workable management framework, however, there has also been an effort to stay within the operating structure set out in the NLCA.

It is also important to consider the suggested management practices in light of the level of commitment recommended in the previous section (i.e., 5.1, The Context for Successful Implementation). Without these commitments in place, many of the recommendations made with respect to the Panel will be only marginally effective.

The issues that follow are grouped according to the following topics:

1. Role and Responsibilities
2. Planning and Organizing
3. Operating
4. Reporting
5. Corrective Action
6. Commitment and Resources

These groupings are roughly in-line with the basic steps of the management process. While the body of knowledge that makes up management theory is not unanimous in how the management process should be described, the use of management steps to categorize a large number of the implementation issues highlights the contribution that good management can make.

5.2.1 The Panel's Role

The Implementation Panel is the intended point of contact between the Parties on implementation concerns. Unfortunately, the Agreement and the Contract provide only partial direction on how the Panel should operate.

The Review Team examined documentation indicating that, on several occasions since the signing of the Agreement, the Panel has attempted to come to grips with how it should operate and organize itself. This includes a current attempt by Panel members to agree on the administrative practices of the Panel.

Discussions with Panel members and staff responsible for supporting Panel members indicate the Panel was also a useful forum for the Parties to make their concerns known to each other. In some cases, this led to the effective resolution of problems on a pro-active basis. In other cases, no effective action resulted from the exchange of ideas.

The Review Team also heard from a number of individuals responsible for implementing different aspects of the Agreements that the Panel was not considered a viable forum for resolving concerns. The reasons ranged from not being aware of the Panel's potential for resolving problems to a lack of confidence in the Panel to achieve a decision.

Further, it was noted that the Panel requires unanimous consent for a decision. This has, on occasion, prevented the Panel from dealing with matters.

As a result, the Panel has been only partially effective in resolving problems and ensuring implementation success. Overall, the Panel could be an effective instrument for achieving better implementation results.

If the Parties are prepared to commit to the Active Management Model, the Panel is the logical choice as the responsibility centre for ensuring active management of the implementation environment.

The role and nature of the Panel would evolve from its current state. However, the suggestions below are generally in-line with the concepts for the Panel envisioned in the Agreement. The Panel would change to become:

- The leader and centre of responsibility for an active management approach;
- The communicator of the Agreements and implementation responsibilities;
- The problem-solver for issues that remain within the implementation realm;
- The developer of an Annual Implementation Plan;
- A storehouse of information on the implementation environment; and,
- A clearing house for all obligations and implementation issues.

The issues that follow flesh out the details of these roles and the problems these roles are intended to solve.

There are likely to be administrative hurdles to overcome as the Panel moves from being a forum for discussion and occasional decisions, towards a more substantive responsibility centre. These administrative hurdles can be overcome with a joint

commitment to the Active Management Model and a modest amount of creative problem-solving.

There may also be concerns about creating a more active body in an already complex implementation environment and about the availability of resources to fund an increased level of activities. These are legitimate concerns.

Weighed against these concerns are the wasted resources associated with ineffective and delayed implementation, and the requirement by all Parties to make a good faith effort at implementing the Agreement.

Recommendations

The Parties should agree that the role of the Panel will change to allow for an active, centrally managed approach to implementation activities.

The Parties should agree to make whatever changes are necessary for the Panel to effectively perform its new role.

5.2.2 Project Management Responsibilities

Although it was mentioned earlier, it is worth emphasizing that an undertaking of the size, scope, and complexity as the implementation of the NLCA would normally have a formal project management process and a Project Manager responsible for achieving the desired results. Further, a project management approach would continue until there has been sign-off on substantially all of the time-limited obligations and there is a track record of smooth operations with respect to the ongoing obligations.

While there are several separate parties involved in the implementation effort, there is one set of interrelated activities. These interrelated activities will best be managed through a single project management process.

The implications of not having a project management process include:

- Obligations may slip through the cracks (i.e., no one is assigned responsibility);
- No one is held accountable (i.e., each Party self-identifies their work, and self-evaluates);
- Small but important details can get missed (e.g., who is responsible for distributing the list of DIOs);
- Communications can break down;
- Actions are not timely, leading to expensive delays;
- Problems are not anticipated and resolved before they become larger issues; and,
- Without a formal sign-off, one Party can dispute that an obligation has or has not been satisfied.

An acceptable project management function for implementation activities would include:

- A common operational objective (e.g., obtaining a formal sign-off on all obligations);
- Joint identification, management, and tracking of each obligation;
- Management tools for identifying detailed tasks, responsibilities, and time-lines;

- A system for assigning, tracking, and reporting on detailed implementation responsibilities and tasks;
- A formal process for handling issues as they arise;
- A definition of what issues will be managed within the implementation effort, and what issues will be handed off to the legal or political level;
- A list of priorities for resolving unfulfilled obligations;
- Periodic reporting on the status of ongoing objectives;
- An Annual Implementation Plan; and,
- A Project Manager.

The Panel would be formally tasked with these project management responsibilities.

Recommendations

The Parties should formally task the Panel with responsibility for the project management function.

The Parties should require the Panel to produce an Annual Implementation Plan.

The Panel should hire a Project Manager with a mandate to obtain a formal sign-off on each obligation.

The Panel should design and implement appropriate project management tools and processes.

PLANNING AND ORGANIZING

5.2.3 An Annual Implementation Plan

At present, there is no implementation plan for managing the implementation process. This leaves the implementation effort vulnerable to poorly thought out strings of action and reacting only to the loudest complaints.

The Implementation Contract has not been updated since 1993 and has ceased to be an effective management tool. As a signed contract, it is a static document.

There is a need for a new, more current planning tool, focussed on current issues and priorities, and more flexible in the way it breaks down tasks and states expected results.

The planning process should emphasize the production of a useable, functional, and flexible guide for managers and not be an attempt to think through every detail. In its approved form, the plan should be a good day-to-day reference for those managers responsible for implementation activities.

In general, the plan should be a statement of how implementation resources will be deployed during the year, and which unfulfilled obligations will be targeted for what sort of action. In particular, the plan should specify deliverables (i.e., the expected outcomes of the year's work). This approach will inform managers about what they are expected to accomplish and will provide a clear backdrop for measuring results in the Annual Report.

In reality, the Annual Implementation Plan will be an amalgam of the Panel's decisions on process-building, monitoring and intervention, and the intentions of those

organizations delegated or designated the responsibility for carrying out the implementation. The Panel will approve the implementation plan within this context.

The Annual Implementation Plan could include:

- A summary status of obligations;
- Goals and objectives for the year;
- An agreed list of priorities for the year;
- Deliverables for each article or section, and for each management process or tool;
- Assignments of primary and supporting responsibilities;
- Time-lines for interim goals and checkpoints within the year;
- Budgets for all implementation activities;
- A brief list of priorities to be addressed in subsequent years; and,
- A level of resources for managing emerging or urgent issues.

This Plan should be approved by the Panel each year. The Plan would then be used by the Panel, and other parties in the implementation environment, for the management of their implementation obligations.

Panel meetings can be scheduled in advance with potential topics for each meeting, in-line with the content and priorities set out in the Annual Implementation Plan.

The timetables for the Annual Implementation Plan, the Annual Report, and milestones for ad hoc initiatives can be specified in advance.

There is a need to consider the status of ongoing obligations on a regular basis. An active management approach could include an annual consideration of these obligations, perhaps staggered on a quarterly basis and tied into appearances by the relevant parties before the Panel.

Communicating the Panel's plans for the year to the front-line managers and the implementation-related bodies will assist in making joint efforts more productive and timely.

Recommendations

The Panel should approve an Annual Implementation Plan each year, including a schedule of key implementation milestones for wide circulation.

The Parties and the Panel should use the Annual Implementation Plan as the primary yardstick for measuring progress at the end of the year.

5.2.4 An Independent Chair

At present, there is a lack of central leadership in the implementation effort. There is no Project Manager seeking to ensure specific obligations are met and that there is a coherent, well-managed process. There is little shared vision of how to achieve the intent of the Agreements in a timely and cost-effective manner. When the Parties disagree, there is no one looking after the tools and processes that make implementation progress possible.

This leaves the implementation effort prone to obstacles, hang-ups, and unresolved arguments.

Appointing an independent, non-voting Chair is a potential solution.

An independent Chair would be an equal colleague at the Panel table, save for Panel votes. The Chair would have a mandate, agreed to by the Parties, to:

- Determine the need for and frequency of meetings;
- Build consensus wherever possible;
- Ensure the Parties understand each other's positions;
- Create a common base of information about the implementation environment;
- Provide independent advice;
- Contribute as an equal at the Panel table;
- Facilitate the resolution of problems in selected cases;
- Provide continuity between Panel meetings and a consistent vision over time;
- Provide an independent point of contact regarding implementation of the Agreements;
- Provide project management services;
- Manage Panel functions and documents; and,
- Manage any services or support staff required by the Panel.

To be truly independent, the Chair would be under a long-term contract (e.g., five years) approved initially by the Parties. Subsequent to appointment, the Chair would be subject only to fulfilling the terms of the contract and the stated mandate.

To be successful in such a role, the independent Chair would need to be an individual with a deft touch and a broad range of skills. The selected individual would need to be capable of using an approach that avoids interfering in the business of the Parties, but is active enough to identify practical solutions.

An executive director position is not recommended for this role. Such a position would be too easily pushed aside or effectively ignored if suggestions were considered inconvenient. An independent Chair will have a better chance of getting the Parties' attention and achieving a constructive engagement of the Parties when difficult matters arise.

Recommendations

The Parties should retain a long-term Chairperson, with whom all Parties agree they can work, to actively manage the implementation effort.

5.2.5 Panel Membership

Panel members have been appointed in accordance with the Agreement since its signing, however, there are several other aspects of Panel membership that impact on implementation success.

Turnover of Members

The GNWT has shown good stability and commitment to the Panel process.

The Federal Government had stable membership during the review period, however, there has subsequently been a reduction in the level of seniority and two turnovers in Panel membership. These are not encouraging signs.

NTI has not shown an appropriate level of commitment in its Panel membership. While there have been legitimate reasons for the turnover, the fact remains that the turnover of NTI Panel members has not served the organization well.

Turnover can substantially reduce the effectiveness of a sensitive body such as the Panel, which relies on effective working relationships as the basis for decision-making. Stability is needed in order to master the extent and complexity of the NLCA and the implementation environment.

The Panel requires long-term commitments from knowledgeable individuals if it is to be effective. Parties without stability in their Panel members will find it more difficult to contribute to implementation results.

Seniority of the Panel Members

Government has an obligation to appoint a 'senior' individual. In the context of the Panel, this means someone who is:

- Able to make all but the most substantial decisions;
- Is a key part of the decision-making process that deals with implementation matters within the Party; and,
- Is able to exercise considerable influence within the Party.

A Director General in the Federal Government likely meets these criteria, but is not the only possible solution. The Federal Government met these criteria during the review period, but is no longer meeting the obligation for a 'senior' member. As currently structured, the Federal Government will have difficulty balancing the requirement for senior decision-making authority with the ability to be knowledgeable and effective on a broad range of specific issues.

There are also structural concerns about meeting the third criterion when it comes to influencing decision-makers outside the federal Panel member's department. These concerns and a potential solution to the problem of balancing seniority versus effectiveness are explored in Section 5.3.1, The Central Agency Implementation Model.

During the review period, the Territorial Government provided effective, senior membership on the Panel, partly as a result of the access to decision-making provided by the Central Agency Implementation Model. Subsequent to the review period, the Territorial Government's member of the Panel has turned over, and the effective level of the new Government's representation has yet to be determined.

While seniority is a requirement for Government, NTI has hampered its effectiveness as a Party to the implementation effort by appointing individuals without the appropriate seniority characteristics.

The implementation effort would be well-served if all three Parties appointing to the Panel chose their members according to the seniority characteristics described above.

The Advocacy Role

To be fully successful, the Panel members need to view themselves not just as cogs in a wheel implementing the policies and positions of each Party, but as the custodians of a purpose. The ability to balance the needs of the overall vision with the bureaucratic realities of working within a formal system is an important requirement of Panel members.

To be effective in this role, there also needs to be a consensus within the Party, that a certain amount of advocacy on behalf of the Agreement is appropriate.

Characteristics of Effective Panel Members

The Review Team noted several characteristics that tended to make Panel members more or less effective.

In addition to the seniority characteristics, the following characteristics tended to coincide with effective Panel membership:

- Ability and willingness to make a long-term commitment to the Panel;
- Dedication to the Panel process (i.e., able to give the Panel first and full-time priority whenever required);
- A good understanding of the issues and concerns faced by all the Parties; and,
- An inclination towards problem-solving rather than confrontation.

Panel members with competing priorities and substantial other responsibilities were less effective.

Recommendations

Both the Parties and the Panel members should be asked to make a multi-year commitment to Panel membership.

All Parties should choose their Panel members according to the suggested seniority and effectiveness characteristics.

The Panel should provide its new members with an extensive orientation on the status of the implementation results, the full extent of the implementation process, and the concerns of all Parties.

5.2.6 Panel Support Functions

Combined Support for Federal and Panel Implementation

At present, support services for the Panel are provided by DIAND staff. This is consistent with the Federal Government's commitment to fund Panel activities.

While no gross violations of the Agreement have been identified, comments were received indicating that, despite the best efforts of staff to reflect the intent of Panel proceedings, the write-ups and actions flowing from the proceedings can have a flavour which is more suited to the interests of the Party providing the support services.

There may be financial efficiencies in combining the support for the Panel with support for the federal implementation effort. However, this places the Federal Government in a position where it could potentially be accused of a conflict of interest.

Overall, this approach has been made to work, however, it has not resulted in an active management approach. This approach has been more suited to a minimalist and passive approach to the management of implementation. If the Parties agree to an active management approach, the Panel will need its own support staff, with a particular set of skills.

Key Support Functions

The key support functions include:

- Project management;
- Communications;
- Financial analysis and funding assessment;
- Computer systems development and support;
- Managing interactions with bureaucracies;
- Administrative support; and,
- Training.

The need for these functions is addressed later in the discussion of selected issues.

An important observation is that the current support staff for the Panel has neither the time nor the broad range of skills required to perform these functions well.

If the other recommendations for improving the total implementation effort are accepted, additional Panel support staff will be required.

Other Considerations of the Panel Support Staff

Panel staff can be a neutral, connective resource for implementing the interests of each Party, solving problems, managing expectations, and restarting the implementation process where it falls dormant.

With an effective mandate, both the independent Chair and the Panel staff can be focussed on the interests of the Parties, potentially including:

- Effective cost control;
- Expedited implementation results; and,
- Better monitoring.

A small group of people, who understand the Agreements and the overall implementation environment well, could go a long way to managing expectations about what the NLCA is (and is not) intended to accomplish. A degree of continuity at the centre of an actively managed implementation effort can keep the representatives of all Parties focused on their implementation responsibilities.

Panel staff can provide recommendations on how to reallocate funds in the face of new requirements. All parties within the implementation environment should take an interest in good financial management, not just the Party providing the funds.

Panel staff can play an institutional role in maintaining the body of knowledge about the implementation environment.

In the case of complete turnover in one area of one of the parties, the Panel staff can act as a timely resource to identify and remedy the problem. An orientation from Panel staff can be seen as a neutral source of information for an office of one of the parties that has lost its corporate knowledge on a particular aspect of the Agreements.

There is a potential downside to providing the Panel with its own staff: The implementation environment is complicated enough as it is. Even so, the need for effective leadership in the implementation effort will likely result in a net-gain in effectiveness from an independent Chair and staff.

Recommendations

The Parties should agree that the Panel have a small, independent support staff with the following skills:

- Project management;
- Communications;
- Financial analysis and funding assessment;
- Computer systems development and support;
- Managing interactions with bureaucracies;
- Administrative support; and,
- Training.

5.2.7 The Mechanics of an Independent Chair and Panel Support Staff

This section provides suggestions on how the implementation effort would be organized and how the Panel, the Chair, and the independent staff would interact.

Roles and Responsibilities

The Panel would evolve to more of a strategic role in supervising the implementation effort, consistent with the Panel's mandate to oversee and provide direction. Senior decision-makers would guide the implementation effort, and would not for the most part be involved in operational decisions. Panel activities would include:

- Set the strategic direction and priorities for the implementation effort;
- Approve key decisions, directions, and documents;
- Approve the annual budget;
- Approve the Annual Implementation Plan;
- Approve key operating policies;
- Sign-off on the completion of each implementation activity;
- Address issues unresolved by the Chair and staff;
- Negotiate the Chair's contract; and,
- Approve the choice of the Project Manager.

The Chair would focus on management and integration of the implementation effort, and would:

- Translate Panel direction and decisions into action;
- Communicate and report on the implementation effort;

- Structure and facilitate discussion on unresolved issues;
- Monitor the disposition of unresolved issues; and,
- Manage the Panel staff.

The following decisions would be reserved for the Independent Chair:

- Operating decisions regarding the provision of support services;
- Editorial control of the Annual Report; and,
- Structuring and documentation of unresolved issues for hand-over to the dispute resolution or negotiation processes.

The Chair would make direct contact with the Parties and implementing bodies at the senior management and decision-making level.

The Project Manager and the independent Panel staff would focus on day-to-day implementation progress, and would be responsible for:

- Detailed tracking of the status and activities related to implementation of individual obligations;
- Assisting the different branches of each Party to be aware of their responsibilities, and ensuring that implementation responsibilities are completed;
- Working directly with the Parties and implementing bodies to resolve issues and obtain working level sign-offs on each implementation obligation (annually for ongoing obligations, or once for time-limited obligations); and,
- Development and maintenance of supporting systems, procedures, and other tools of implementation.

The Project Manager and the independent Panel staff would make direct contact with a broad range of representatives at the working level within the implementation environment.

Form of the Implementation Management Organization

To be fully effective, the implementation management organization should be a separate legal entity, not a part of Government or an Inuit organization. There are likely two suitable choices:

- A non-profit society under the laws of Nunavut; or,
- A non-profit corporation incorporated under Part II of federal companies legislation.

This is a similar approach to the set-up of the transition teams. The choice of society versus corporation and the mechanics of setting up need to be researched further, however, the approach is sound.

Panel members and the independent Chair would be the directors of the implementation management organization. The objects of incorporation (or registration in the case of a society) would be to manage the implementation of obligations under the NLCA and the Implementation Contract, and to discharge the Panel responsibilities stated in Article 37.

The implementation management organization would be authorized to enter into funding agreements, employ staff, rent office space, conduct administrative activities, maintain a bank account, and utilize a modest amount of operating debt (as a precaution against

delayed funding payments). The organization would be prohibited from investing in real property or anything with a substantial degree of risk.

Status and Accountability of the Independent Chair

The independent Chair would have a contract with the implementation management organization, and would not be an employee. The Chair's contract would need to be structured to support this.

The Chair's contract might also be structured to include a fixed fee base plus a variable component, to allow for a reduced time commitment on the part of the Chair once the set-up activities have been completed.

The Chair would be accountable to the Panel for the general objectives set out in the contract and specific annual objectives, both of which would be approved by the Panel.

Staff Reporting and Compensation Arrangements

The Project Manager and the Panel staff would be employees of the implementation management organization and would report to the Chair. Employees would be offered a competitive compensation package, independent of the packages used by either government or Inuit organizations. Likely, a standard benefits package would be offered through a private sector provider.

Location

Over the long-term, the implementation management organization should be based in Iqaluit. In the short-term (e.g., over the first two business cycles), there is a need to be in Ottawa while Panel support responsibilities are transferred from the Federal Government, and working relationships are established with the larger, more diverse federal government organization.

Once the implementation management organization has its people, processes, and working relationships in place, operations would be moved to Iqaluit. To maintain continuity, a commitment to work in Iqaluit would be a condition of employment at the time of the initial hiring.

Impact and Effectiveness of the Implementation Management Organization

There are several timing implications related to the set-up of the implementation management organization. It would likely take six months for the organization to be fully functional (after a decision to go ahead) and two years before its full effect would be felt throughout the implementation environment.

After two business cycles, it would be useful to have the Panel examine the following issues:

- The amount of time required by the Chair to meet Panel objectives, post set-up;
- The location of the organization;
- The effectiveness of the organization in providing services to the Panel; and,
- The extent to which the organization and the new process have improved the effectiveness of the implementation effort.

The results of this examination will enable the Panel to make any adjustments necessary to the deployment of resources (e.g., the services provided by the Chair). It will also be useful information for the next 5 Year Review, at which time the active management model will be assessed.

OPERATING

5.2.8 Administration Basics – of the Panel

During the research for the 5 Year Review, the Review Team noted a number of instances where basic administrative needs had not been addressed. Examples include:

- Lack of current contact information;
- DIO list not distributed;
- Enrollment list not provided for two years; and,
- List of Inuit companies not provided in some years.

These problems indicate a lack of coordination and ineffective connective mechanisms between the Parties. Small but important details can and do slip between the cracks. This in turn creates problems when representatives of one Party criticize representatives of another Party for not doing the job properly, when in fact the information required by the second Party has not been received.

There is a need to identify standard operating procedures, to ensure that all representatives of each Party (and implementing bodies) have the information and tools they require to properly discharge their responsibilities.

Additional concepts related to effective administration, communication, and record-keeping are examined elsewhere in Section 5.2, Panel Issues.

Recommendations

The Panel should develop a set of standard operating procedures describing the responsibilities of Panel staff and selected staff from each Party.

5.2.9 Central Identification and Monitoring of Objectives

At present, each Party tracks the status of only those obligations which that Party identifies to be its responsibilities. There is no central tracking of status, viewpoints, and contact information on each objective.

There are a number of weaknesses observed with the current approach:

- There does not appear to have been any check to make sure every obligation has been assigned to one of the Parties;
- The systems used to monitor obligations sometimes contain outdated, inadequate or self-serving statements on status;
- NTI does not appear to have an effective system for monitoring its obligations;
- There is no meaningful consensus on the status of obligations which can be demonstrated on a consistent basis;

- The representatives of each Party do not have complete and up-to-date access to each others' views on the progress towards the fulfillment of each obligation;
- There is little in the way of systematic review on the ongoing obligations; and,
- Contact information is dissociated from obligation information, and was found to be out-of-date.

With these weaknesses, it is difficult to manage and measure progress. The lack of clear status statements makes it difficult to do anything other than respond to the loudest complaints. It also leaves each Party vulnerable to statements that it is hindering implementation progress because it has not performed its duties properly.

An appropriate management tool would go a long way to resolving these concerns. This management tool could be a common database with the following features:

- Information on:
 - Each obligation statement;
 - The current action steps for each unfulfilled obligation;
 - Status statements for each obligation;
 - A history of actions and decisions related to each obligation;
 - Relevant correspondence and documentation;
 - Contact information for each Party's (and implementing bodies') front-line representative; and,
 - Administrative initiatives (e.g., documentation on the DIO process).
- There would be a status statement controlled by each Party, plus a consensus sign-off statement if agreement exists;
- Obligation statements would be broken down to an elemental level (e.g., separate comments related to time-liness, consultation, what is to be performed); and,
- Unrestricted, on-line read only access to the database.

Recommendations

The Panel should create a common database for tracking all relevant information associated with each obligation.

The Panel should make the database accessible to a wide audience, including all front-line managers with implementation responsibilities, and possibly the public.

5.2.10 Delegation and Tracking of Implementation Management

The Panel does not currently track the assignment of individual obligations to individual front-line managers. This can result in unassigned obligations, loss of continuity as individuals change jobs, and no follow-up on expected actions.

This in turn places a burden on one of the Parties, often NTI, to identify problems and take action to restart implementation efforts. NTI should not have to play a policeman's role nor bear the burden of this role. Effective control of delegated responsibilities is a joint responsibility of all Parties.

The common database for tracking obligations is part of the solution to this problem. Another important part of the solution can be a well-defined process for managing the delegation process.

The Nature of 'Delegation and Designation' in the Implementation Environment

A potential complication is the fact that while the Panel may agree on which Party is responsible, it is the prerogative of each Party to determine how an obligation will be managed within their internal organization. The Party, rather than the Panel, makes the delegation of responsibility for a given obligation. In the case of NTI, there is a formal designation of a DIO.

Given that the Panel is charged with project management responsibilities, the real issue is tracking which offices are currently responsible for an obligation and the need for any intervention by the project management function. The Panel can track the assignment of responsibility for obligations, as made by each Party, and can provide assistance to the designated front-line managers as needed.

Panel Tracking of Implementation Responsibility

The Panel could establish several levels of intervention when tracking responsibility and status, as suggested in the following sequence:

Front-Line Managers: Initial 'assignment' of implementation responsibility would be to front-line managers, as chosen by the respective Parties. If the front-line managers are able to agree on how the implementation is to be conducted, as a group they would provide a short briefing to the Panel on the action steps currently under way.

Upon successful conclusion of the obligation (or annually in the case of ongoing obligations), the managers would recommend the Panel sign off on the obligation, and could suggest the sign-off statement to be recorded in the common database.

In this case (i.e., the default assumption or base case), there is no intervention by the project management function, only tracking of the status.

Standing Working Group: If the front-line managers cannot agree on how to implement the obligation or require assistance in doing so, a Working Group made up of central agency implementation specialists from each Party would seek to resolve the problem.

This group might also be assigned ad hoc responsibilities for maintaining and modifying the tools and processes of the implementation environment, as is necessary.

Where problems are complex or not well understood, the Working Group could also be used to define and shape a problem so it can be managed through other implementation avenues. If the appropriate concerns are resolved, it is then possible to return the responsibility for a particular obligation to the front-line managers.

Successful resolution of an implementation issue or satisfaction of an obligation would be documented in the common database.

Ad Hoc Task Groups: Where specialized skills (e.g., archaeology) are required to resolve an implementation issue, ad hoc task groups would be struck, perhaps with terms of reference defined by the Working Group, to find a solution to some of the more difficult problems. Depending on workload, Working Group members might also participate in the task groups.

Successful resolution of an implementation issue or satisfaction of an obligation would be documented in the common database.

Resolution by the Panel: Once the three implementation avenues above have failed, the Panel could attempt to resolve an outstanding matter, addressing the issues it felt might be necessary, possibly considering minor trade-offs – whatever is necessary to avoid a large number of unresolved issues.

At this point, an independent Chair could take a lead role in understanding concerns, avoiding entrenched positions, and proposing creative, neutral solutions.

Referral to the Dispute Resolution Processes: If a matter cannot be resolved by the Panel, the matter would be referred to the dispute resolution processes. The independent Chair would attempt to define the area of disagreement, assemble the known facts and documents, and make suggestions on which dispute resolution mechanisms might be appropriate.

In effect, a file on each disputed matter would be transmitted to the political decision-makers. The political decision-makers and their legal advisors would then determine how to proceed.

Upon referral to the dispute resolution processes, a file or issue would be reclassified from an implementation matter to a negotiating matter, and a different set of players would take over. This fact would be recorded in the common database, and no further action would be planned until a resolution was achieved or enough progress had been made at the political level to make the implementation process an alternative again.

Tracking and Reporting: There should be definition, tracking, and reporting of all items still in dispute. To do otherwise is to favour the status quo, and is, to some degree, a decision not to implement. There is currently a tendency to try and wait issues out to see if they will go away. This is not appropriate for implementing an Agreement that is all about making change.

Providing brief descriptions of the unresolved issues in the Panel's Annual Report would keep the issues visible and could potentially create a desire to address the issues.

Any mechanisms which create a desire to resolve issues in an economical manner should be considered.

Recommendations

The Panel should document and encourage the Parties to make use of a system for delegating and managing obligations through the following avenues:

- Delegation to front-line managers;
- The use of a standing Working Group;

- The formation of ad hoc task groups;
- Resolution by the Panel itself; and,
- Referral to the dispute resolution processes.

The Parties should report on their unresolved differences each year.

5.2.11 Financial Management Responsibilities

Financial Decision-Making

The Panel has the authority to reallocate implementation funding as it sees appropriate. In order to perform this responsibility effectively, the Panel requires some form of broad financial picture and analytical support, preferably from a neutral source.

At present, the Panel does not receive the data required to make informed decisions, and is unable to perform the reallocation function in a proper manner. The current approach results in frustration and distrust between the Parties.

The lack of information about the implementation environment also suggests that the Panel will have difficulty in discharging its responsibility to:

“... make recommendations to the Parties to the Implementation Plan respecting ... funding levels ... beyond the initial ten year period;”

In order to make an informed decision on what to recommend, the Panel will need good financial information and good information about the operations in the implementation environment. There should be no question of anyone having gained advantage due to information being controlled. Sharing all available information will remove this concern.

Further, controlling information about aspects of the implementation environment is a significant barrier to an effective Panel and is not a sign of good-will. A better approach would be to share all available information and for all Parties to work constructively towards implementation, including effective cost control.

Recommendations

The Panel should develop, with the assistance of the Parties, a full picture of all financial information in the implementation environment, including the implementation budgets and expenditures of each of the Parties and any implementation-related bodies.

The Panel should ensure it has a staff person with the capability of providing financial analysis and advice.

REPORTING

5.2.12 The Panel's Annual Report

At present, the Panel puts out a report that includes separate statements by all three Parties, plus the implementing bodies. There is also a small joint statement from the three Parties.

Comments on results tend to be general statements about activities during the year rather than quantified measures or clear analysis versus the objectives for the year.

As the primary accountability document for the implementation of the NLCA as a whole, the Annual Report does not contain sufficient information to allow anyone to make an informed decision about the state of the implementation effort, the status of individual obligations, nor the value received for the resources utilized.

The types of information that would provide a clear picture include:

- A restatement of the objectives put forth in the Annual Implementation Plan at the beginning of the year;
- Analysis of the results achieved versus each objective;
- A summary of key impact measures, indicating how life has improved for Inuit;
- A complete financial picture of all funds dedicated to the implementation effort, regardless of where they were expended;
- An independent commentary by the independent Chair of the Panel, focussing on results and barriers to successful implementation;
- Commentaries from each of the Parties, and the implementing bodies;
- An appendix containing a summary status of the obligations drawn from the common database; and,
- An appendix summarizing all outstanding disputes.

Production of the annual report should rest with the Panel's support staff, rather than one of the Parties.

The use of annual reports as an accountability document is an accepted practice in both the public and private sectors. The Annual Report can also be a cost-effective accountability document if it is supported by ongoing project management and performance measurement tools.

Recommendations

As the primary accountability document for implementation of the NLCA as a whole, the Panel's Annual Report should be restructured to include:

- A restatement of the goals and objectives put forth in the Annual Implementation Plan;
- Analysis of the results achieved versus each objective;
- A summary of key impact measures;
- A complete financial picture of all financial expenditures, regardless of source;
- An independent commentary by an independent Chair of the Panel;
- Commentaries from each of the Parties;
- A summary of the status of each obligation; and,
- A summary of all outstanding disputes.

5.2.13 Communication and Transparency

The work of the Panel is public by nature and should for, the most part, be publicly available. Panel minutes, records of decision, and submissions can be made available. There is a broad range of decision-makers and a large, complex governing structure that can be affected by the Panel's proceedings. Making use of the electronic distribution

tools that are available will assist in keeping everyone informed in a timely, cost-effective manner.

Similarly, the Panel needs to be aware of the activities of the implementation-related bodies. Similar documents from these organizations should flow to the Panel on a routine basis.

Any key documents relating to implementation activities (e.g., major reports, resolutions to problems) should be available for exchange and form part of the permanent record. The Panel can serve as a clearing house for distribution and access of documents related to the implementation of the Agreements.

The common database outlining the status of obligations, including the statements of each Party on each obligation, should be available to anyone with an interest in the matter. Posting this information on the Internet would provide complete transparency on the status of implementation.

The highly disbursed members of the Parties and implementing bodies could often benefit from more frequent interaction. An electronic sharing of information on common topics would also provide a better understanding of implementation activities and potentially a more efficient means of gathering information.

Recommendations

The Panel should share its minutes, decisions, and related documents electronically with other implementation-related bodies, and vice versa.

The Panel should publish most information in the common database, setting out the status of individual obligations on the Internet.

The Panel should take a lead role in enabling implementation organizations to improve the sharing of information by establishing common practices and tools for using the Internet.

CORRECTIVE ACTION

5.2.14 Intervention by the Panel

The Panel currently responds to problems as they arise. The process tends to be ad hoc, and can result in positions becoming entrenched before there has been a good exploration of alternatives and potential solutions.

As part of the Panel's cycle of management activities, there needs to be more thought given to the process of converting from monitoring to intervention.

The Panel needs to agree, in advance, to some guidelines on what will trigger intervention, what should be done, and how priorities will be set.

If matters arise between meetings, consideration and intervention may be delayed until the next meeting. To help expedite resolution, the guidelines should also set out some of the parameters for the Panel's staff to operate within, when a matter has yet to be considered by the Panel.

An independent Chair and staff, combined with accepted methods of managing breaking issues, can go a long way to creating a constructive problem-solving environment. Small problems can be resolved before they become large problems.

Recommendations

The Panel should agree in advance when and how it will intervene in the implementation process.

The Panel should set out a flexible process for managing emerging issues, and taking action between meetings.

COMMITMENT AND RESOURCES

5.2.15 A Five Year Commitment to the Active Management Model

Much of the discussion in Section 5 centres around the concept of active management, rather than management by exception. The active management concept will only work if all Parties commit to it.

To some degree, the Active Management Model is a commitment to engage each other constructively in sorting out the details of implementation. In practical terms, it involves a limited suspension of the effective veto that each Party has at the Panel table, in favour of other means of control (e.g., approval of an annual work-plan, the mandate of the independent Chair and Panel staff, and genuine discussion of the issues).

There are significant potential benefits to the proposed model, however, the model is untried and is in large measure dependent on the selection of the key players (i.e., Panel members, the Chair, and the staff). As a result, there is a risk that the Active Management Model may not be any better at achieving results than the status quo.

Rather than commit to this approach indefinitely, the best course of action may be to try the Active Management Model for five years and see how it works. In addition, each Party would retain its right to pull out of the process during that time if it felt the other Party was not operating in good faith.

The results of the active model can also be assessed as part of the next 5 Year Review. To the extent that all Parties can benefit from faster, cleaner implementation, each Party will have an incentive to continue engaging each other with the Active Management Model. If the approach is not working for one of the Parties, the expectation is that there will be a return to the status quo at the end of five years.

In the meantime, each Party can indicate to its stakeholders that it is engaging the other Parties in a good faith attempt to resolve problems, make good on commitments, and provide the intended benefits of the NLCA.

Recommendations

The Parties should agree to constructively engage each other with the active management model for the next five years, with no obligation to continue the approach after that time.

The Parties should assess the results of the active management model as part of the next 5 Year Review.

5.2.16 Resource Requirements

To round out the discussion on the active management approach, it is useful to consider the extent of resources required to implement it. These resources might include:

- An independent Chair - with broad knowledge and skills, possibly part-time;
- Two manager-level individuals – for project management, communications, financial, and systems expertise;
- An administrative officer;
- Budgets for travel and technology; and,
- Office accommodation.

In the context of an implementation effort in the order of \$15 million annually, spending a few percent of the budget on project management would be within the normal range for a complex project and would be a good investment in both efficiency and long-term effectiveness.

This is one of the few areas where new implementation funding appears to be appropriate. As these proposed functions are suggested as part of the Panel's operations, and the Agreement states that the costs of the Panel are the responsibility of the Federal Government, funding the proposed functions would be the responsibility of the Federal Government.

Recommendations

The Federal Government should fund the functions proposed for the Implementation Panel.

5.3 ORGANIZING FOR IMPLEMENTATION (Beyond the Panel)

5.3.1 The Central Agency Implementation Model

Observations on Approach

The GNWT has had a reasonable degree of success in communicating implementation responsibilities to its various offices, heading off potential implementation problems, gaining the appropriate commitments from senior decision-makers, and coordinating the efforts of different departments.

The GNWT's use of a central agency for leading and coordinating implementation has resulted in a coherent and effective response to most implementation issues. The central agency has also been effective in coaxing and coaching different departments at various times when the implementation effort did not meet the legitimate expectations of the other Parties.

This contrasts with the federal approach where one department coordinates efforts to some degree, but with limitations on effectiveness (both structural and self-imposed).

The GNWT implementation model also involves regular communication between departments, led by the central agency. This has served to improve knowledge and coordination on the implementation of the Agreements. The regular interdepartmental meetings have also served well in building relationships at the working level, mitigating the effects of turnover, and updating people on new developments in the implementation environment.

Further, the central agency approach has resulted in better access to senior decision-makers, when important decisions have been needed. The central agency has provided a clear focus on and has acted as an effective advocate of the GNWT's role and obligations, largely undistracted by competing programs and priorities. This has resulted in a more responsive Party, more potential solutions for consideration, and fewer unresolved issues.

Contribution to the Implementation Environment

The Review Team felt the Central Agency Model made a constructive contribution to the implementation environment and would fit well with the proposed management framework for the following reasons:

- Many obligations require the cooperation of more than one Party to get a complete and effective result. The ongoing relationships and continuity fostered by the central agency results in better solutions and fewer unresolved issues;
- The separation of line and staff responsibilities within the Party provides a management control on front-line activities, rather than having each department police themselves, and offers an opportunity for advocacy and intervention within the Party before positions become entrenched;
- Provides a check that the Party's response is consistent, honourable, and meaningful to the other Parties; and,
- Provides a single point for contact when multiple offices of the Party are involved, or when there are disagreements about who should be involved.

The Challenges for the Federal Government

The Federal Government has organized itself differently for implementation. DIAND has been assigned responsibility to lead and coordinate the Federal Government's implementation effort. In this regard, the Federal Government's representative on the Implementation Panel is from DIAND, and administrative support to the Panel is provided by DIAND staff. As noted in 5.2.6, Panel Support Functions, there are other calls on the time of these staff members. In addition to its role to lead and coordinate the Federal Government's implementation effort, DIAND has specific implementation obligations ranging from land management to developing legislation for IPGs. In other words, DIAND has dual implementation responsibilities on behalf of Canada and the Minister.

While the Federal Government is considerably larger than the other Parties, it is reasonable to expect the central agency implementation model would have benefits for the federal Party similar to those found in the GNWT. It would also remove the dual responsibility now carried by DIAND. Applying this model to the Federal Government would require structural changes and would likely be a sensitive matter internally. A central agency may also be seen as infringing on the rights of departments (and their Ministers), however, to the extent that the central agency reflects the Federal Government's obligations and commitments, this infringement is the reality of the shared decision-making set out in the NLCA.

A central agency can also carry the responsibility for seeing the NLCA is well-understood in the Federal Government, and can take a lead role in resolving any conflicts between the requirements of the NLCA and the requirements of the federal Party's internal processes.

Locating the central implementation management function in the Privy Council Office may be a reasonable solution.

Recommendations

The Federal Government should manage its implementation effort through a central agency.

The Federal Government should set up an interdepartmental working group to coordinate and communicate issues related to the NLCA.

5.3.2 Management of NTI Responsibilities

NTI has a number of responsibilities in the implementation of the Agreements.

DIO Delegation Process

One of the most significant responsibilities is the delegation of specific obligations to Designated Inuit Organizations (DIOs), which then carry out the activities under the obligation, and interact with representatives of the other Parties, implementing bodies, and, in some cases, commercial interests and the public.

The DIO delegation process was not effectively in place during much of the review period. NTI has done a good job of implementing the delegation framework recently.

Monitoring

The DIO reporting process is not yet fully operational. This is a key element in the management process for NTI. Some form of standardized and regular reporting is required from the DIOs. This may represent a significant challenge, however, there has to be some form of regular reporting and control.

Supporting and Coordinating

At present, NTI is not well-organized for supporting the DIOs. There is no systematic process for determining areas where the DIOs need training or assistance, nor does there appear to be a routine for having the technical specialists (e.g., human resources, wildlife) assist the DIOs in understanding and discharging their responsibilities.

The need for such processes appears to be understood, however, results have yet to catch up with the needs.

Obligation Tracking

NTI does not currently have an effective system for monitoring the status of its obligations, the obligations delegated to DIOs, or the efforts of the other Parties.

The central identification and tracking approach, and the associated system tools proposed for the Panel, could be used by NTI to monitor and track the information it needs to manage effectively.

Coherent Issue Management

The Review Team noted that NTI often has a one-off approach to managing issues and a tendency to focus on whatever issues have a profile at the moment. A number of attempts appear to have been made to coherently manage obligations, but with only modest success.

NTI needs to do a better job of organizing itself to address the full range of implementation issues.

Leadership of the Implementation Effort

Leadership is often difficult to pin down, however, there are two aspects about the leadership of the implementation effort which are worth noting.

Firstly, the implementation effort does not appear to have had the full attention of NTI's executive and board of directors. This led to a vacuum in which advisors, including legal advisors, tended to exercise more of a leadership role.

The focus of Inuit leaders on the start-up of the Government of Nunavut was understandable, and likely served to draw attention and energies away from the implementation effort. This barrier to implementation success has likely resolved itself.

In the future, it would be helpful if there is more Inuit leadership in the implementation effort, and more direct involvement by the board of directors.

The second point relates to the focus of the individuals leading the implementation effort. The training, background, and inclinations of those leading the process (to the extent that anyone is leading) will influence how issues are managed and resolved. This in turn will lead to certain types of results.

While it is difficult to say who was leading NTI's implementation effort over the review period, and with what leadership style, a project management focus in NTI's leadership would likely have resulted in more implementation results and more resolved issues.

Conclusions

The DIO delegation process currently being implemented is an important prerequisite to effective management.

NTI requires additional improvement in its management processes and tools before it can be a fully effective participant in the implementation effort.

The level of NTI's effectiveness in implementation management has an impact on the ability of the other Parties' to discharge their implementation responsibilities.

Recommendations

NTI should develop better monitoring, communication, and support processes for managing the responsibilities delegated to the DIOs.

NTI should consider managing its obligations through the joint tracking system suggested in Section 5.2.9, Central Identification and Monitoring of Objectives.

NTI board of directors should become more involved in the leadership of the implementation effort.

NTI should consider more of a project management focus in its leadership style for the implementation effort.

5.3.3 Applying the Right Skill Sets

The Review Team noticed that some of the best implementation results were achieved by the front-line managers responsible for a particular technical area. In these cases, the pattern appeared to be one where the representatives of each Party or implementing body familiarized themselves with the requirements of the NLCA, made their own interpretations and practical trade-offs, and found a solution that was workable in their technical environment.

In other cases, individuals without an appropriate management or technical background sometimes played a lead role in reviewing materials, developing positions, or otherwise influencing events. In these cases, there appeared to be less success in achieving a satisfactory implementation result.

While the observations of the Review Team are not conclusive, the concept of having front-line personnel manage implementation tasks makes a certain amount of intuitive sense. In this regard, it would be useful to place more emphasis on solid technical and

management skills in leading the implementation effort. Bringing more technical expertise (e.g., human resources, land management, project management, contracting) to the implementation effort will result in more practical solutions.

This comment applies to all parties in the implementation environment, but in particular to NTI. NTI's turnover and historical reliance on legal advice during the negotiating process appears to have contributed to a tendency to look for legal solutions first.

Using the legal skill set on occasion is appropriate and the need to take legal action still exists in some areas, however, in the implementation effort, managers and technical staff should take a leadership role, with legal skills and perspectives being used only in select cases.

Recommendations

All Parties should enable managers and technical specialists to take lead roles in managing the implementation effort.

All Parties should make an effort to look first for practical, on-the-ground implementation solutions.

The Parties should reserve legal approaches to resolving problems for instances of intransigence.

5.3.4 The Dispute Resolution Processes

Beyond the machinery of the implementation process, the Parties have several avenues to resolve problems, including:

- The Arbitration Board;
- Meetings of the Principals of the Parties; and,
- Litigation.

While not part of the implementation process as defined earlier, there still needs to be a commitment to the implementation objective of obtaining a successful resolution on all issues affecting the implementation of obligations. In this regard, the Parties are not making effective and systematic use of the dispute resolution tools available to them.

The Arbitration Board

The Arbitration Board has not yet been used. The Review Team notes that the Chairman of the Arbitration Board is an employee of one of the Parties (i.e., NTI). This is a potential barrier to the utilization of the Board.

The nature of the Arbitration Board, with its authority to make binding decisions, may also contribute to its lack of use. The Parties may prefer unresolved issues to adverse rulings, and are happy to avoid arbitration. To the extent the delays result in the deferral of benefits for Inuit, this approach is contrary to the spirit and intent of the Agreement.

If there is a reluctance to use the Arbitration Board because the existence of a dispute is politically sensitive for all concerned; the publication of the list of disputed items may help create a desire to use the Arbitration Board and get a resolution.

Meeting of the Principals

It would be useful to have an annual meeting of the Principals of each Party, with the discussion and decision-making led by the Principals. These meetings are envisioned as well-structured reviews of well-defined implementation problems, not generalized complaint sessions or sympathetic 'nod-the-head' sessions.

The intent would be to decide how each problem should be handled (e.g., referred to arbitration, issue instructions to management, a key interpretation). It might also be a last opportunity to look at the issue before one Party decides to litigate.

Use of the Dispute Resolution Processes

The important point here is the active management of the unresolved matters, and a commitment by all Parties to the effective use of the available tools. There may be an interest in letting some matters lie unresolved, however, delays in implementing the NLCA often mean delays in the intended benefits for Inuit.

The Need for Economical Dispute Resolution

The Federal Government has control over many of the resources used to implement the various aspects of the Agreements (e.g., new legislation, the bureaucratic machinery used to conduct the business of government). Further, there is a substantial imbalance in the financial resources available to the Parties to engage in disputes.

Ideally, such imbalances in resources should not come into play. In reality, the most practical solution may be a commitment by each of the Parties to enumerate their differences and try the Arbitration Board for one-third of those differences.

This may establish the Arbitration Board as a viable alternative for resolving disputes.

Recommendations

The Arbitration Board should select a non-partisan Chair.

The Parties should not appoint individuals with direct ties to them to the Arbitration Board.

The Parties should enumerate their differences and submit a series of unresolved issues to the Arbitration Board as a means of establishing its usefulness as an economic means of dispute resolution.

The Principals of the Agreements should meet annually to review the list of items referred by the Panel to the dispute resolution processes.

The Panel should report annually on unresolved matters it has referred to the dispute resolution processes.

5.3.5 Knowledge of the Implementation Environment

The NLCA is a very large and complex undertaking. The Agreement, the Contract, and the developments since July, 1993 all contribute to a large body of knowledge. The inter-relationships between the obligations, the implementing bodies, and the Parties add to the complexity. The decentralized nature of the implementation environment and its constituent parts adds a further layer of complexity. The evolution of the IPGs and the introduction of the Government of Nunavut add still more.

The Agreements are complex in both content and detail. No one has the whole picture.

At the same time there are considerable misconceptions about the Agreements. Representatives of the parties are not well-informed about rights and obligations under the NLCA, nor is the administrative machinery that provides substance to many of these rights and obligations. High turnover in many key positions exacerbates the problem.

The DIOs are a critical component in the implementation process, however, there appear to be a significant number of instances where DIO staff do not have the depth of understanding that is required to be fully effective in the implementation effort.

The public is not generally aware of the content of the Agreements, although there are high expectations in some areas. At the moment, this is made worse by the lack of anticipated legislation and revisions to the laws of general application. It would be useful to have the public better informed about the basic facts, as laid out in the Agreement and Implementation Contract.

Communication processes are still relatively limited, based largely on the one-to-one or one-to-several models of correspondence, fax, and e-mail. NTI is the only organization actively communicating with a broader audience about implementation matters, yet each of the Parties has an interest in how the Agreements are understood.

Perceptions about the obligations that have and have not been met are not always consistent with the realities.

These differences in the information, as held by the various stakeholders in the implementation environment, lead to differences of opinion on what needs to be done. This in turn is a barrier to implementation success.

Without a common understanding of what is expected, there will continue to be dissatisfaction about the state of implementation.

It is not realistic to expect that everyone will become an expert on the Agreements, however, it is reasonable to make an ongoing effort to disseminate knowledge about its intent and contents.

Recommendations

The Parties should document and systematically update the body of knowledge surrounding the NLCA.

The Parties should package and routinely disseminate the body of knowledge surrounding the NLCA for different audiences (e.g., job orientation, public communications, decision-makers).

5.3.6 Corporate Memory

Corporate memory is an issue that is closely related to knowledge of the Agreements, the difference being the focus on the knowledge and information resources available to the key players in the implementation environment.

The corporate memory that does exist tends to be diffuse, oral, and unstructured even when documented. The tendency towards high employment turnover in the Nunavut territory makes it even more important to institutionalize the corporate memory function.

At present, there is no single place to keep all the relevant information relating to a particular matter. There is no single place for identifying, assigning, tracking, and dispensing with obligations and issues. There is no systematic monitoring of responsibilities and knowledge levels on an article-by-article basis.

There are no central records for implementation-related matters. Policies and procedures related to implementation information and processes vary widely, and in many cases are non-existent. The quality of records tends to be effective only as long as an incumbent remains.

NTI, the GNWT, the Federal Government, and the Panel all suffer from the loss of corporate memory to varying degrees. The exceptions tend to be the Panel staff function provided by DIAND and Aboriginal Affairs, the responsible GNWT central agency. Other parties are particularly vulnerable to losing their progress up the learning curve and their capacity to implement their responsibilities.

Some one or some body needs to be tasked with an institutionalized corporate memory function. The Panel and its support staff would seem to be a sensible choice.

Recommendations

The Panel should act as a resource to the implementation environment, by performing the following functions:

- Maintaining a joint database on all obligations;
- Providing training and orientation to representatives of the Parties, and public information on implementation matters;
- Leading a higher level of electronic communication and information sharing; and,
- Working to improve records management across the implementation effort.

5.3.7 Administrative Basics - in the Implementation Environment

Implementing the obligations of the NLCA and the Implementation Contract presents a significant challenge to all those involved. Although there are only two Parties to the NLCA and an additional Party to the Implementation Contract, there are literally dozens of organizations, many of which have a number of offices responsible for implementing obligations.

Implementation of the NLCA is not just a 'project'. There are some non-recurring obligations that will see an end, for example, the vesting of title in IOLs. The majority of obligations are ongoing and must be incorporated in the general operations of implementing organizations.

Those involved in implementation have reported a common set of what can be termed 'administrative' problems, including:

- Turnover of key staff and staff vacancies that have resulted in a loss of corporate memory, delays in project completions, and the need to rebuild working relationships;
- New staff have generally found orientation to their own and their organization's implementation obligations to be inadequate;
- Records management is problematic for a number of reasons:
 - There is no single, authoritative central registry of key implementation documents,
 - Records are incomplete, and
 - Filing systems in use vary and do not promote the tracing or tracking of implementation activities among different organizations;
- Notifications of designations or appointments are not documented, or confirmations are not sent to those requiring the information;
- Procedures to govern the implementation of obligations are not formalized or incorporated in the standard operating procedures (be they procedural manuals or job descriptions) of most organizations. Implementation of informal procedures or processes is often dependent on the personal knowledge of individuals;
- Information about whom is responsible for implementation of obligations within organizations and how to contact them is not regularly or widely shared; and
- The effectiveness and use of implementation planning tools varies within organizations. In some cases, plans were used more for obligatory reporting than for guiding implementation activities.

This is not an exhaustive list. It is clear that addressing many of the larger implementation issues has been hampered by a lack of basic administrative infrastructure.

There are a number of recommendations in Section 5.2, Panel Issues, that would see the Implementation Panel developing implementation tools for its own use and for use by others involved in implementation.

Adoption of these recommendations would go a long way in providing a common starting point for departments, agencies, IPGs, and DIOs involved in implementation.

Organizations with implementation obligations need to review their administrative structure in light of any central support mechanisms adopted.

In particular, the following "basics" need to be in place:

- Orientation programs for new staff and board members that describe implementation obligations;
- Job descriptions that include implementation responsibilities;
- Procedural and standard operating manuals that incorporate implementation obligations;

- Diary systems for recurring obligations, such as appointments;
- Records management procedures to address common file references, central registries and accessibility for records concerning the implementation of obligations;
- Distribution systems for information that are regularly updated and contain contact information; and,
- Implementation action plans (that are updated regularly).

Recommendations

All organizations involved with implementation review their administrative infrastructure and make adjustments to ensure the "basics" are in place.

Where appropriate, the parties in the implementation environment should make use of the administrative support tools developed by the Panel.

A Task Group, under the auspices of the Panel, should be formed to look at relatively non-intrusive methods for improving and coordinating administrative functions in the implementation environment.

5.4 OTHER ISSUES

5.4.1 Focus on Implementation Results

One of the most challenging adjustments after the signing of a negotiated agreement is to focus on obtaining implementation results. One of the best ways to meet this challenge is to focus on what the desired results are (e.g., success in training, employing, and contracting Inuit). When the focus is on the result, it is easier to avoid getting hung-up on process requirements.

Particularly in a new environment, a 'try it and see' approach can be a useful approach. Concerns about compromising legal rights can be addressed with caveats that indicate the right to return to the status quo.

Assumptions of Empowerment

It is also important to remove any unproductive assumptions that remain from the previous relationship between Government and Inuit. Focussing on what the Parties want to achieve (e.g., Inuit well-being and participation in decision-making) will help resolve some of the nagging problems that remain.

The organizational behaviour noted during the review period indicates that perceptions of Inuit as permanent victims or Inuit as needing to be protected from themselves are still present to a degree. These perceptions are barriers to effective implementation and need to be removed from the implementation environment. To the extent that such assumptions underlie the actions of the Parties, the objective of self-reliance will not be achieved.

It would be useful for all Parties to examine their behaviour for these types of assumptions and to find ways to modify the behaviour.

Leadership by Example

NTI can take a leadership role in demonstrating the behaviour it would like to see in other organizations in Nunavut. While it is not legally obligated to meet and report on high profile issues such as levels of Inuit employment and contracting, doing so provides NTI with both the 'proof of concept' argument and adds moral authority to statements that Government can and should do better.

Understanding the challenges of meeting and reporting on these issues will also provide NTI with practical insights into achieving the desired results. This in turn will help NTI in arriving at practical implementation solutions as it works with the other Parties.

Recommendations

All Parties should be more open to a 'try it and see' approach.

All Parties should examine the assumptions which underlie their actions, particularly in areas of controversy, to determine if old, pre-Agreement attitudes are still driving decisions.

NTI should lead by example, measuring and reporting its own performance on a selection of high profile issues, such as Inuit employment and contracting.

5.4.2 Board Member Appointments – Implementing Bodies

The appointments to the Nunavut Wildlife Management Board were made in December, 1993 over five months after legislation establishing the NWMB was passed. Appointments to the Arbitration Board were made by a superior court judge under Article 38.1.4 in September, 1994, over a year after ratification and nine months after the deadline specified in the NLCA.

Appointments to the Surface Rights Tribunal were announced in April, 1996 over two years after the deadline in the NLCA. Appointments to the IPG Transition Teams were made in October, 1994, over a year after ratification. Appointments to the NPC, the NIRB and the NWB were made July 9, 1996. Reappointments were made on the due date of July 9, 1999 after repeated inquiries from the IPGs. The uncertainty related to continuity of membership prevents scheduling of hearings or other business. The affect of this uncertainty extends to interested publics that have business before the boards.

A pattern of delay is emerging in the appointment of board members. Late appointments had a significant affect on the ability of implementing bodies and others involved in implementation to meet their time-limited obligations under the NLCA and Implementation Contract. For example, the NWMB was not operating until March, 1994 (after a short period of orientation) and had to request that the Parties amend the NLCA to delay the commencement of the Nunavut Wildlife Harvest Study from July 9, 1994 to January 1, 1996. Implementation of other obligations, dependent on the results of the Harvest Study, has consequently been delayed as well.

Continuing this apparent pattern of delay in making appointments, or reappointing members, has a negative affect on current operations.

A delay in appointments is also a strong signal in the implementation environment that delay is acceptable. The Review Team was made aware of some established administrative procedures intended to ensure appointments are made in a timely manner. However, without a commitment at all levels of Government (including the political levels at which appointments are actually made) to follow these time-sensitive procedures, there will continue to be delays, consequences in relation to the implementation effort, and adverse affects on the operations of implementing bodies.

Recommendations

Where appointment or reappointment procedures are not in place, Governments should establish them.

Government, at all levels, should commit to the timely appointment and reappointment of board members to promote uninterrupted operations by the implementing bodies.

5.4.3 Consultation

The NLCA and Implementation Contract direct that 'consultation' take place in the implementation of many obligations. The requirement for consultation is variously stated. It may be the requirement for 'close consultation', or simply consultation. It may

require consultation with named entities, such as a DIO, or a more general requirement to consult with NSA residents or DIOs likely to be affected. In addition to requiring consultation in the implementation of obligations, there are other requirements for seeking advice, seeking recommendations, participation, cooperation, coordination, and establishment of communication processes. The use of these terms indicates that different approaches will be required depending on the obligation being implemented.

The Review Team heard about 'good' consultation experiences, for example, the development of legislation to implement Article 4 (Nunavut Political Development). Another example was agreement for the establishment of a 10 year survey program for all IOL. There were also examples of 'bad' consultations. The consultations related to drafting of IPG legislation fall into this category.

In assessing the various consultation experiences, it is clear that there are differing expectations of consultation. What is also clear is that the process, and result to be achieved through consultation, are rarely established at the outset. Those entering into consultations have erroneous views about process and result, including:

- Consultation is an opportunity to renegotiate specific sections of the NLCA (see also Section 5.1.3, The Separation of Implementation and Negotiation);
- Consultation provides a veto to the participants and continues until there is agreement;
- As long as there is an exchange of information, consultation has taken place; and,
- Extending consultations will resolve disputes.

Consultation must assume good-will on the part of those involved. The NLCA has been ratified by both Parties, and with this ratification comes a commitment to implement its provisions within the spirit and intent of the Agreement. The Implementation Contract stipulates that it "shall be interpreted so as to promote the implementation of the Nunavut Final Agreement, and to avoid conflict or inconsistency with the provisions of the Nunavut Final Agreement." (Section 1.3)

Successful consultation or similar processes require a clear understanding at the outset about the process, the intended results, and alternatives for resolving disputes. A process for dispute resolution under the auspices of the Implementation Panel is suggested in section 5.2.10, Delegation and Tracking of Implementation Management. Existing dispute resolution processes are discussed in section 5.3.4, The Dispute Resolution Processes.

Range of Consultation Efforts

The situations requiring consultation vary considerably in nature. Some matters are critical to Inuit in both their closeness and their impact. In other cases, the matter may be of interest as much or more to third parties or only have a modest impact on Inuit. In such cases, an expedited form of consultation may make sense.

Choosing an appropriate consultation approach requires some forethought, some sensible judgement, and some good faith on the part of all the Parties.

A reasonable start would be for the Panel to think through a range of consultation approaches, and suggest a few guidelines for their use. A degree of structure in the consultation options would be a useful contribution to the rapport between the Parties.

Recommendations

When consultation is involved in the implementation of an obligation, those involved should identify the intended results of consultation and the process to be followed. Consultation plans should be recorded in the common database of implementation obligations and activities.

The Panel should note deficient consultations in its Annual Report.

The Panel should structure a range of consultation options and develop guidelines for matching circumstances with consultation approaches.

5.4.4 Legislation Establishing the Institutions of Public Government

No legislation has been passed under Article 10 of the NLCA. The Federal Government has not met its obligations under Article 10. Bill C-62, the *Nunavut Waters and Nunavut Surface Rights Tribunal Act*, the only proposed legislation to-date, is opposed by NTI. NTI has also expressed serious concerns about the consultation process followed in the drafting of this Bill. NTI has contrasted the consultation process for the drafting of implementation legislation under Article 4 of the NLCA to establish the Government of Nunavut (that in NTI's view was a positive experience) with that being used to establish the IPGs.

NTI's submission to the Review Team makes it clear that in their view, the close consultation required to implement the obligations under Article 10 is not complete until agreement is reached. The Federal Government did not make a submission to the Review Team, so a formal position in that regard is unknown. DIAND officials did report that Cabinet authority was obtained to share drafts of legislation with NTI. They saw the process proceeding with draft legislation being drafted on instructions from DIAND by federal Justice and the drafts being used to consult, not negotiate, with NTI. These approaches to a close consultation process exemplify the problems described in Section 5.4.3, Consultation. There was no common understanding at the outset of what a close consultation process meant and what the results of such close consultation would be.

In their submission to the Review Team, NTI described substantive issues regarding Bill C-62, that in their view are still outstanding. The issues raised by NTI throughout the consultation process have generally been based on the assertion that legislative drafts have not been faithful to the letter, spirit, and intent of the NLCA. Government has revised draft legislation throughout the review period but has not addressed all NTI concerns. In November, 1996, NTI appeared before the Standing Committee on Aboriginal Affairs and Northern Development to present a list of outstanding issues concerning Bill C-51, a proposed *Nunavut Water Board Act*. The Standing Committee decided that the Bill was not ready to proceed.

Whatever the outstanding issues, the fact remains that the obligation to pass IPG legislation has not been met, and the consultation process required during the drafting of legislation has been flawed. NTI has suggested a new approach to the drafting of the

remaining implementation legislation – an approach that provides for a “genuine partnership”. The major elements of the proposed approach are summarized as follows:

- An independent facilitator to supervise the conduct of consultation;
- The development of detailed work-plans for consultation and drafting;
- Federal Government agreement that no Bill or amendment to legislation be introduced prior to NTI’s agreement that consultation is complete;
- The development of mutually agreed principles, guidelines, and specific drafting instructions;
- Concurrent review of draft legislation and agreement that consultation is concluded on an issue-by-issue basis;
- Faithfulness to the language of the NLCA when conflicting interpretations arise;
- Where there is disagreement on the interpretation of the NLCA, a sharing of legal opinions on a confidential basis and/or jointly funded independent legal opinions; and,
- Commitment of the Parties’ legal counsel to the process.

The Review Team agrees that a new approach to close consultation on the drafting of IPG legislation is required. There is no good reason a consultation approach similar to the approach used in developing the legislation for the Government of Nunavut cannot be used.

In Section 5.1.3, The Separation of Implementation and Negotiation, the challenge of distinguishing between those items which require further interpretation and those where there is a fundamentally different understanding of what was intended is noted. Issues arising from differing interpretations of the NLCA are not going to be resolved through a consultation process – however close. The NLCA and Implementation Contract provide for dispute resolution processes (the Implementation Panel and Arbitration Board). Dispute resolution and consultation are also discussed in Sections 5.2.10 and 5.4.3 respectively.

Recommendations

NTI and the Federal Government adopt a new approach to “close consultation” on the drafting of IPG legislation.

The recommendations of Section 5.4.3, Consultation, apply but should not limit the Parties in considering elements of NTI’s proposed approach.

5.4.5 New and Revised Laws of General Application

Government has not revised laws of general application to conform with the provisions of the NLCA. This problem is compounded by many examples where operational procedures have not changed either. The Nunavut Implementation Commission, in their October, 1996 report entitled “Footprints 2”, summed up the situation:

“... unless considerable greater bureaucratic energy is invested in the updating of federal and territorial laws to accommodate the *Nunavut Agreement*, the ability of even professional wildlife managers – let alone members of the public – to understand the wildlife management regime in post-division Nunavut will be almost impossible.”

As noted in obligation status reports, government officials may be waiting for advice or information from implementing bodies before they can develop legislative revisions. However, this does not prevent a review of existing legislation and regulations to begin the process of statute revision. The GNWT began the process of revising the *Wildlife Act* to, among other things, bring it in-line with the NLCA. It is understood the Government of Nunavut is continuing this process.

In its submission to the Review Team, NTI describes the federal government practice of including a general non-derogation provision, related to any existing treaty rights of aboriginal peoples of Canada under Section 35 of the *Constitution Act*, 1992, in new or revised legislation. NTI has pointed out that the clause initially used has been varied since first being introduced. The reason for this change is not known.

Recommendations

Government should develop plans to revise laws of general application in the next review period.

Government should submit these plans to the Panel as part of the management process recommended in Sections 5.2.2, Project Management Responsibilities and 5.2.3, An Annual Implementation Plan.

The Panel should review the Federal Government’s practices related to non-derogation clauses and decide if it considers this to be an implementation issue.

5.4.6 Funding Arrangements for the IPGs

Reallocation of Funding

There is a concern about the authority of the Panel to reallocate funds and carry forward funding. In this respect, the NLCA states the Panel shall:

“... when it deems it necessary, revise the schedule of implementation activities and the allocation of resources in the Implementation Plan, obtaining the consent of the Parties to the Plan ...”.

The Contract (a.k.a. the Implementation Plan) defines the Parties to the Plan as the Federal Government, Territorial Government, and the Inuit (i.e., NTI). In this respect, the Panel provides a function similar to the function provided by a treasury board in Government. To the extent changes in funding are required, the Panel has the authority to make a decision on the matter.

Where funding issues arise, the Panel will need the expertise to deal with the matter. Particularly where issues are controversial, it will be appropriate for the Panel to have independent support and analysis on each funding issue.

Financial Control and Contribution Agreements

There is also a concern about the nature of administrative restrictions contained in the contribution agreements and the funder's involvement in supervising the financial affairs of the IPGs.

Under the Agreement, the Federal Government has an obligation to fund the IPGs. Under Article 37, the funding arrangements shall:

“... provide ... a degree of flexibility to allocate, reallocate, and manage funds within their budgets ...”

The Agreement goes on to qualify this requirement by stating:

“... no less than that generally accorded to comparable agencies of government,”

Viewed narrowly, it would seem that this qualification is intended to be for the benefit of the IPGs. To use this phrase as evidence that the IPGs should be subject to restrictive administrative practices is perverse.

The Review Team received submissions from some IPGs that their financial management was being overseen in too much detail. Funding has flowed to the IPGs from the Federal Government using a contribution agreement. NTI and the IPGs have objected to the form and content of the contribution agreement since 1994.

Specific concerns relate to:

- The use of contribution agreements that are designed for First Nations, and do not recognize the nature and standing of the IPGs under the NLCA; and,
- Carry over provisions and the sense that the provision of funding (not specific funding levels) is year-by-year and not tied in perpetuity to the NLCA.

Despite assurances over most of the review period that the contribution agreement will be revised to address these expressed concerns and better reflect the objectives of the NLCA, the offensive clauses have not been removed.

As long as appropriate and practical accountability mechanisms are in place, restrictive financial administration arrangements seem unnecessary.

Management of the Issue

This issue has been the subject of considerable documentation and discussion, both prior to and during the Review. There may be legitimate concerns on both sides of the discussion, however, the real point is that the issue has not been managed properly.

There is enough flexibility in the wording of the Agreements to exempt the IPGs from any narrow definitions governing First Nations contribution agreements. The Panel, as a body, has the authority to resolve disputes, including the interpretation of the wording in question.

The effort wasted on this dispute is sufficiently large as to rank it with the potential financial problems that the restrictive financial administration measures are intended to

prevent. If the Panel cannot make a decision, the matter should be referred to the dispute resolution process so the Parties can get on with other implementation matters.

Recommendations

The Panel should agree that Federal Government financial administration policies in dispute do not apply to the IPGs, and the Federal Government should arrange its internal affairs so that compliance is not a problem.

In the absence of an agreement on the administrative arrangements for funding, each Party should put forth a proposal and the Arbitration Board be asked to make a decision.

5.4.7 Implementation Funding Levels

In general, there is adequate funding in the implementation environment. There are two exceptions to this statement: the NIRB and the functions of the Implementation Panel.

With the balance of the implementation bodies, it is likely too soon to tell if they are adequately funded. In most cases, the implementation bodies were setting up or normalizing their operating practices in the Review period. In some cases, the implementation bodies have not yet processed applications, files, et cetera through their procedures or practices. There has been no ‘shake down’ of the operating practices and no real opportunity to assess what it takes for the organization to operate effectively.

The NIRB

There are two legitimate cost-drivers influencing the NIRB's expenditures. The first is the lack of IPG legislation which is creating a requirement for Board members, rather than staff members, to screen applications. The passage of the IPG legislation would likely resolve this matter.

As noted in Section 5.4.4, Legislation Establishing the Institutions of Public Government, the close consultation process required during the drafting of legislation has been flawed. The NIRB should be encouraged to identify the effect the absence of legislation has had on its operations and finances in a funding application to the Panel. The Panel should then provide an independent assessment of the NIRB's needs and make its recommendations. The Panel should consider funding sources outside the reallocation of existing implementation funds.

The second NIRB item relates to the requirement that the NIRB screen applications in the absence of either the IPG legislation or Land Use Plans (at present, both are absent). Funding for screening is already in the implementation environment, in the NPC's budget, and should be reallocated to the NIRB, preferably by way of a joint submission from the NIRB and the NPC.

In the case of both items, the NIRB's need for additional funds should be temporary. As a result, there should be no long-term requirement for additional implementation funding with respect to these items.

Functions of the Implementation Panel

Funding for the functions of the Implementation Panel, as described earlier, is the responsibility of the Federal Government.

The Panel will need to develop an operating budget in-line with the recommendations made earlier in Section 5.2, Panel Issues.

Recommendations

The NIRB should make funding submissions to the Panel to address its concerns.

The Panel should develop an operating budget based on the functions and tools recommended earlier.

5.4.8 Inuit Impact and Benefit Agreements (IIBAs) - National and Territorial Parks

Baffin National Parks

The NLCA prescribes that the negotiation of IIBAs for the three proposed National Parks be concluded as follows:

<u>Proposed Park</u>	<u>Date to Conclude IIBA</u>
➤ Auyuittuq	July 9, 1995
➤ Ellesmere Island	July 9, 1995
➤ North Baffin	July 9, 1996

The Parties agreed to extend the conclusion deadline for Auyuittuq and Ellesmere Island until July 9, 1997. An umbrella IIBA, covering the three proposed National Parks was signed August 12, 1999.

Inuit spent \$847,000 on negotiations. Six hundred and five thousand dollars (\$605,000) of this amount came from the Implementation Fund established to, in part, assist Inuit to take advantage of opportunities, including economic opportunities arising from the NLCA. The federal government costs are unknown.

NTI reported flaws throughout the negotiating process coming from all levels within Parks Canada. Without commenting on the examples provided by NTI, it is clear that these IIBA negotiations were extended and costly. This point is brought home when these negotiations are compared with those for the ULU project that took nine months at a much reduced cost.

The expenditure of a large sum on negotiations is driven by problems with the negotiating arrangements. With a large number of decisions and behaviours having an impact on costs, it is not possible to determine precisely why costs were so high. A number of potential explanations exist.

What is likely, is that the managers responsible for the negotiations did not monitor and manage the progress of negotiations effectively.

Territorial Parks

The Territorial Government and DIOs are required to negotiate IIBAs for Territorial Parks established prior to ratification of the NLCA by July 9, 1998. The number of affected Territorial Parks was not definitively established during the review period. Numbers provided were conflicting and appeared to be based on different criteria. For example, the number of parks for budgeting purposes was given as 13 and the number of parks for the purposes of discussions with Inuit was described as zero.

This raises doubts about intentions and is not helpful in maintaining good working relationships.

The parties did not reach agreement concerning the approach to negotiating IIBAs (individually or under an umbrella agreement) during the time-frame stipulated for completion.

NTI has expressed concern about budget allocation decisions by the Territorial Government for operating and capital expenditures on Territorial Parks. The Implementation Contract provides that the costs of implementing IIBAs, in the case of new parks, shall not exceed 5% of the sum of the park's capital and operating costs for the period of the IIBA. In the case of existing parks, the limit is tied to operating costs only. There is provision to exceed the prescribed limit with a reallocation of unexpended funds identified for negotiation or renegotiation of IIBAs.

The monies available for implementation should not impact the ability to negotiate the IIBA. The IIBA can be negotiated and implementation funding addressed subsequently.

In the case of Territorial Parks, basic information was not clearly communicated (e.g., how many parks?). These negotiations are an illustration of some of the issues raised throughout Section 5.3, Organizing for Implementation (Beyond the Panel), particularly 5.3.5, Knowledge of the Implementation Environment; 5.3.7, Administrative Basics – in the Implementation Environment; 5.4.1, Focus on Implementation Results; and, 5.4.3, Consultation.

Recommendations

Where implementation issues become negotiating issues, managers of Inuit organizations should consider cost implications in the mandates given to negotiating teams, and should monitor progress and costs accordingly.

The Government of Nunavut definitively identify Territorial Parks in the NSA that relate to implementation obligations.

5.5 IMPLEMENTATION OF ARTICLE 24

This section of the report discusses the issues related to Article 24 and provides suggestions for making progress on Article 24.

5.5.1 The Intent of Article 24

Article 24 provides measures to allow Inuit to develop the skills, experience, business relationships, and track record to become competitive in the Nunavut marketplace. It is also intended to remove systemic barriers to Inuit success with respect to the inclusion of Inuit labour in private sector bids and the purchasing practices of Government.

Article 24 does not contemplate a permanent preference (see Article 24.9.3), and envisions a time when Inuit businesses will be sufficiently competitive and government buying habits sufficiently Nunavut focussed, that Inuit businesses will be able to compete successfully without government assistance provisions.

In short, Article 24 is intended to have a time-limited life-span.

Article 24 is not just about putting dollars in Inuit pockets, although this is an important benefit. It is about strengthening Inuit capabilities and creating a business environment in which systemic barriers to Inuit are automatically identified and removed. Any other perspective on government assistance risks creating a mindset of dependency and is inconsistent with the objectives of the NLCA (i.e., Inuit self-reliance).

The contemplated time-frame for meeting the goal and desired changes in Inuit capabilities and government buying habits is 20 years, with provisions to shorten or lengthen the time-frame depending on the level of Inuit success.

At present, it appears that both Inuit business and government practice have a way to go before reaching this goal, however, it is useful to keep it in mind when considering what currently needs to happen with Article 24 implementation.

5.5.2 Areas Requiring Attention

Several areas require the joint attention of the Parties, if the full benefits of Article 24 are to be achieved. These areas include:

- Consultation;
- Communications;
- Getting the current practices right;
- Reporting and monitoring;
- Learning the lessons; and,
- Planning for an orderly phase-out of Article 24.

5.5.3 Consultation

As noted in Section 2 (see 24.3.2, Close Consultation), the required 'close consultation' has not taken place between NTI and the Federal Government. Why this happened is the subject of varying interpretation. What is clear, is the need to address this obligation.

The record of meetings and correspondence indicates that, while there may have been some discussion on the matter, the result was more an exchange of positions than a genuine attempt to exchange thinking and achieve common solutions. A change in approach and attitude by both Parties is needed if progress is to be made.

Close consultation is not defined in the Agreements. However, it can be said to be more than notification of the government's plans and a simple exchange of ideas, and less than a requirement that both Parties agree to a solution. In between, there is room for a constructive discussion where both Parties acquire a genuine understanding of the operating needs of the other and jointly work out solutions that meet those operating needs.

While a preferential purchasing policy is in place, there are a number of legitimate points of process which currently require resolution within the provisions of the NLCA. Specific examples are discussed in the next section.

Genuine consultation, without rigid positions, and focus on the requirements of the NLCA is a prerequisite to making real progress. A true meeting of the minds is needed. It is important that there be agreement on how Article 24 is to be implemented if progress is to be made and the full benefits of the Article are to be realized.

A renewed effort at consultations also provides an opportunity to re-think existing approaches, consider new ways to achieve the benefits of Article 24, and get the attention of internal decision-makers.

5.5.4 Communication

During the course of the 5 Year Review, it was noted that with respect to Article 24, the Parties:

- Often dealt with different sets of 'facts', which led to perceptions of the other Party being unreasonable;
- Had difficulty in identifying or connecting with the appropriate representatives in other Parties; and,
- Used communication means which did not always achieve the desired results (e.g., widespread awareness amongst Inuit business).

In general, there is a need for a better communications effort. Two qualifications are appropriate: There tended to be more significant breakdowns between NTI and the Federal Government, and it appears that more of the discussions with the Federal Government had a practical tone in recent years. This being the case, there is still a need to:

- Build constructive working relationships at the management level;
- Agree on how information will be exchanged; and,
- Agree on what information is needed to manage Article 24 effectively.

A Central Point of Contact

Closely related to the communication issue is the need for a central point of contact.

A central point of contact on Article 24 matters, particularly in the Federal Government, would assist in improving communications. It would be useful to have someone who is

familiar with the operating environment in Nunavut, the details of the Agreements, and the operating practices of the Federal Government in this role. Knowledge of all three aspects is needed to be effective in communicating and resolving Article 24 issues.

Without creating a great deal of new work, it should be possible to incorporate this responsibility into the central agency function suggested in Section 5.3.1.

5.5.5 Getting the Current Practices Right

The discussions between NTI and the Federal Government have been unfruitful in several areas. There is a need to engage in constructive discussions on several process issues that are preventing a complete implementation of Article 24 obligations. The following four items highlight areas in need of resolution and provide some practical approaches for the Parties to consider.

Crown Corporations: The NLCA includes certain crown corporations in the definition of the federal Party. It appears that efforts to apply the provisions of Article 24 have stalled on the basis that federal Treasury Board instructions do not apply to crown corporations. The internal management processes of the federal Party are not at issue. What is at issue is the fact that the federal Party needs to find the appropriate processes to address this deficiency and should assign a lead responsibility in this regard.

Concurrently, it would also be useful for the Federal Government to define itself in more specific terms by creating a list of those crown corporations that are active in Nunavut, and potentially scope the size of their contracting arrangements in Nunavut.

Responding to the Evolving Capabilities of Inuit: At first reading, there appear to be two opposing points of view on this issue: on the one hand Article 24.3.6 could be interpreted to mean that reduced Inuit preference is required as Inuit firms become more able to compete. Conversely, this Article might be interpreted to mean that as Inuit businesses gain more experience there should be some assistance in helping Inuit firms become involved in more complex projects.

In fact, when the intent of Article 24 is considered, both interpretations may be correct. The challenge of putting both interpretations into practice is knowing when Inuit firms are ready to compete and ready to take on new challenges. This requires good quality monitoring information and is best conducted within a framework of criteria agreed to in advance.

Such an approach would allow the contemplated phase-out of Article 24 preferences to be conducted on an orderly basis, and would allow a more hands-on (e.g., negotiated contract) approach to assist Inuit in tackling larger and more sophisticated projects.

Notification Practices: In the past, the process for notifying Inuit about federal contract work has raised a number of concerns:

- Notices have not been distributed as agreed;
- In invitational situations, a complete list of Inuit firms has not always made it into the hands of the appropriate government decision-makers; and,
- The elimination of Inuktitut, and Internet-based notifications may effectively exclude certain Inuit from participating in economic opportunities.

The difficulties with undistributed notices relate to consistency of administrative practice in specific Inuit organizations, however, it also raises a question about the wisdom of adding an additional communication link in a time-sensitive bidding process. These are administrative issues that the Parties may wish to reconsider.

These requirements do not necessarily have to become hurdles in the project management process. Planning in advance can minimize delays and expense. For example, e-mailing an abbreviated notice paragraph to a firm of Inuktitut translators for translation and forwarding to the appropriate publications is both timely and cost-effective.

Further, the issue of dropping Inuktitut from notices also impacts on the larger working relationship between the Parties. Given the cultural sensitivity surrounding the use of Inuktitut, a practical means of addressing the notification needs of unilingual Inuit should be developed.

With respect to the evolution of certain business practices on the Internet, a balance needs to be struck. While it is the prerogative of government managers to evolve their business the way they see fit, within the Nunavut Settlement Area this evolution needs to consider the impact on Inuit.

In the case of the Internet, accessibility and reliability vary radically between communities. While plans exist to improve Internet access in Nunavut, the evolution to doing business over the Internet needs to consider the timing of this impact. Joint discussions on the move to Internet-based business practices are required.

(Note – This is an example of why Governments need decision-makers with a working knowledge of business conditions in Nunavut.)

Access to Training: There is an issue related to the access to training on the government contracting process. Part of the issue can be resolved by improving communications. For example, knowing who in the Government offers this type of training makes it much easier to request. Maintaining an ongoing dialogue helps the representatives of the Parties stay in touch with training needs, and helps keep the issue in view.

Another part of the issue relates to the location of delivery. The expense of delivering training beyond the regional centres (i.e., in the small communities) raises questions of cost-effectiveness and accessibility.

A practical solution might be to coordinate government training sessions and presentations with regional business events as an agenda item or an add-on. The larger challenge in this approach is to have the appropriate communication practices and working relationships in place.

Working with business organizations such as the Nunavut and regional chambers of commerce can also provide cost-effective opportunities for improving access. In discussions between the Parties, it should be possible to plan periodic training in advance, to the satisfaction of all. If there are still concerns about the volume or frequency of training, the Parties can try measuring the training requirement.

Overall, the discussion in this section points to a need for an effective and ongoing dialogue on contracting matters.

5.5.6 Reporting and Monitoring

Article 24.8.1 requires that the Government “monitor and periodically evaluate” the implementation of Article 24. Further, Article 24.9.3 requires a review of the effect of Article 24 within 20 years. Both responsibilities require a well-developed data collection effort.

The planning assumptions in Schedule 1 to the Implementation Contract indicate an intent to collect information, stating that:

“All federal departments, departmental corporations and crown corporations and territorial departments and public agencies shall collect the necessary data to monitor and periodically evaluate the implementation of the Article.”

This means that the Federal Government needs to start tracking relevant details as part of its routine contract management processes. It also likely means changes to the computer systems which track contracts. Such a change does not have to be a single purpose change to corporate contract tracking systems (i.e., this information may be required for other settled claims as well).

Additional relevant information can be accessed through NTT's registration process for Inuit firms and recorded in its database on Inuit owned firms.

In practice, a joint effort at defining the appropriate information and determining how best to acquire the information will yield the best results.

For the evaluation of the implementation process, information needs to be gathered to answer the following questions:

- Were the appropriate policies developed?
- Were the policies applied correctly?
- Are the administrative mechanisms functioning effectively?

For measuring implementation results, the following items should be considered for Inuit firms in the contracting environment:

- Bidding success;
- Revenue volumes;
- Inuit employment volumes;
- Development of skills; and,
- Track record in the business community.

To provide a degree of context to trends in implementation results, consideration should be given to measuring the following environmental variables:

- Level of capital expenditures;
- Labour force trends; and,
- Price levels.

Some form of baseline data is also required. Considering the difficulties of generating data from several years ago, it may be best to use the present as the baseline. This, in turn, suggests a degree of urgency in beginning the monitoring process.

5.5.7 Learning and Applying the Lessons of Implementation

Once monitoring information is in place, there is a need to determine what the information means and then act on the conclusions. Identifying the best practices, understanding why other approaches were not successful, and adapting current practices are all important steps in delivering the benefits of Article 24 to Inuit.

This process requires an ongoing dialogue between the Parties, and a timely, flexible decision-making process. Focussing efforts on trying different approaches, dissecting the results, and adjusting strategies will provide the best means of creating effective Inuit competitors, the routine selection of Inuit employees and service providers, and a fair contracting environment.

5.5.8 A Plan for the Orderly Phase-Out of Article 24

Creating a plan for the phase-out of Article 24 will focus attention on the fact that Article 24 has a time-limited life-span, and will help concentrate efforts on achieving the intended benefits for Inuit.

Such a plan can also focus on the best practices learned from the periodic reviews, apply the lessons learned, and generate new initiatives in areas where Inuit are not yet strong.

It will be difficult to make a case for the conclusion of Article 24 if the consultation process has been flawed, there is no reporting, and steps are not taken to ensure that Inuit expertise and government practices are improving. These items are prerequisites to concluding Article 24.

To avoid these responsibilities in the hopes of extending Inuit preference provisions is contrary to the intent of the NLCA, is a high risk course of action, and may not serve Inuit well in the long run.

Recommendations

The Parties should renew their efforts to implement Article 24, taking into consideration the need for improvement noted in Section 2, Status of Implementation Obligations.

The Parties should develop the information needed to manage Article 24 effectively and a common understanding on how this information will be exchanged.

The Federal Government should assign responsibility for making internal changes such that specified crown corporations are instructed to comply with Article 24.

The Panel should set up a Task Group to address issues related to the evolving capabilities of Inuit firms, notification practices, the reality of Internet commerce, and access to Article 24 related training.

The Panel should set up a Task Group to implement the monitoring of Article 24 and its impact.

The Panel should publicize the time-limited nature of Article 24 and begin planning its phase-out.

6.0 COMPLIANCE WITH SPIRIT AND INTENT

This section of the report examines the elements of 'spirit' and 'intent', the types of activities that might reasonably lead to conclusions about compliance, and an assessment of how well each of the Parties has done in meeting the spirit and intent of the NLCA.

6.1 DEFINING SPIRIT AND INTENT

Assessing compliance with spirit and intent presents a number of conceptual and judgmental challenges. Nevertheless, there are some indicators that could shed some light on how well the Parties achieved results consistent with spirit and intent.

The Review Team looked at several aspects of the implementation environment to determine if there was compliance with the spirit and intent of the NLCA. Looking at a single aspect is not conclusive, nor is it definitively linked to the rather undefined concept of spirit and intent. Taken together, however, the views from each aspect provide some understanding of the level of compliance with spirit and intent.

The following aspects of compliance are discussed:

- Behaviour observed by the Review Team;
- The overall objectives stated at the beginning of the Agreement;
- Total results;
- Key successes and failures;
- Adaptation of the Parties; and,
- Good faith from an organizational perspective.

The first four aspects are discussed in terms of the joint performance of the Parties. The last two aspects look at the performance of each Party individually.

This section's discussion on compliance with spirit and intent is by nature more subjective, however, it is a useful discussion to have.

6.2 DISCUSSIONS ON COMPLIANCE

6.2.1 Behaviour Observed by the Review Team

During the course of the 5 Year Review, the Review Team encountered very few individuals that could be described as willfully obstructive, although a few determined examples were found.

The documentation reviewed did not indicate willful obstruction, although there was ample evidence of practices that impeded successful implementation of the Agreements. Most of the problems noted could be traced to systemic causes.

Although there were numerous cases of progress being made only to regress as organizational functions faltered or turnover occurred, there is an overall trend towards improved understanding and behaviour towards implementing the Agreements.

Conclusions

Most individuals in the implementation environment have constructive intentions about implementing the Agreements.

The existence of obstructive individuals is not a significant barrier to implementation success.

6.2.2 Overall Objectives

Figure 6.1 provides a summary of the success the three Parties have had in meeting the objectives at the beginning of the NLCA.

6.1 - Performance on Overall Objectives

Objective	Result
Certainty and clarity of rights to ownership and use of lands and resources.	Largely achieved. There is certainty and clarity of ownership of lands and resources in the NSA. Inuit and government land and resource use regimes are in place. As these regimes are more formally and fully defined, certainty and clarity about the use of lands and resources will improve.
Inuit participation in decisions concerning land, water, and resources.	Achieved on IOL. Inuit have secured direct decision-making over IOL and resources on IOL and Article 40 and 41 lands and resources. Partially achieved outside IOL. Inuit participation in this aspect of government decision-making has significantly improved.
Provide Inuit with harvesting rights and the right to participate in decisions concerning wildlife harvesting.	Partially achieved. Inuit have secured harvesting rights, although a common understanding of the exercise of those rights needs improvement. Inuit exercise their rights at local and regional levels. Inuit participate in decision-making at territorial and inter-jurisdictional levels through a variety of means. Government needs to distinguish between Inuit participation and IPG participation.
Provide Inuit with financial compensation.	Achieved, via scheduled payments to the Nunavut Trust.
Provide Inuit with the means of participating in economic opportunities.	Unable to determine. Progress has been made with partial implementation of the training and contracting opportunities, although the available monitoring data are inconclusive. See Sections 3, 4, and 5.5 for details. IIBA negotiations did not result in economic opportunities during the review period.
Encourage self-reliance of Inuit.	Unable to determine, although there is anecdotal and a limited amount of survey information to indicate a positive trend.
Encourage cultural and social well-being of Inuit.	Unable to determine. Insufficient information exists to determine results.

Conclusions

There has been progress in the exercise of rights tied to meeting objectives of the NLCA.

Effective monitoring information is not generally available, and will be needed if there is to be a determination about achieving the economic, self-reliance, and cultural and social well-being objectives of the NLCA.

Overall, receipt of many of the benefits expected under the NLCA cannot be confirmed. All Parties have a responsibility for changing this situation and incorporating implementation and monitoring of the objectives of the NLCA into their ongoing business.

As a result, the Parties, as a group, have been partially successful in complying with the intent of the NLCA.

6.2.3 Total Results

The ultimate proof of compliance with spirit and intent is successful results.

Although a crude measure, a scorecard based on the total number of obligations met, partially met, or not met is a useful exercise in evaluating overall compliance.

Weaknesses in the approach include difficulties in defining precisely what constitutes a discrete obligation, differences in the importance and impact of each obligation, and the judgement required to arrive at a rating in each case.

It is important to note that implementation success requires the full satisfaction of an obligation. In the case of time-limited obligations, activities must have been satisfactorily completed during any prescribed time-frames. In the case of ongoing obligations, implementation success relates to the five year review period, and the ongoing implementation status must again be examined in the future. The partial completion of an obligation is not satisfaction of the requirement under the Agreements. It acknowledges the efforts of the Parties to meet the obligation.

The figure, Summary of Implementation Performance, found in the Executive Summary and at the conclusion of Section 2, reveals that approximately half the obligations were substantially complete (either achieved for time-limited obligations or achieved during the review period for ongoing obligations).

Conclusions

The level of partially complete or largely unmet obligations is cause for concern and indicates inadequate results by the Parties.

6.2.4 Key Successes and Failures

Similar to looking at the volume of total results, it is possible to look at the most significant successes and failures, and gain an additional perspective on how the results speak to compliance with the intent of the NLCA.

The following lists provide a selection of the best and the worst aspects of the implementation effort, as selected by the Review Team. These lists are a mix of obligations and processes.

Best Successes

Legislation Establishing the Government of Nunavut - Achievement of this obligation has set the stage for one of the most significant changes to governance in the NSA. The process used by the Parties for the drafting of legislation was seen as cooperative and resulted in legislation that has changed the political face of both the NSA and Canada.

NWMB - A good example of how implementation bodies can be well-organized administratively, properly focused on obligations and objectives, and operate within the spirit and intent of the Agreement.

Archaeology - A good example of front-line managers succeeding in implementation despite roadblocks. Managers representing each party's interests found effective ways to 'get on with it'. A good example of effectively empowered managers.

Central Agency Implementation Model - The central agency implementation model was successfully used by the GNWT. It resulted in coordinated implementation within a large, decentralized Party and provided those charged with implementation with access to decision-makers. The Ministry of Aboriginal Affairs has effectively acted as coach, conscience, and communications conduit. It is noteworthy that the Government of Nunavut has adopted the central agency implementation model.

DFO Area Office Efforts to Understand and Improve - This organization took the initiative to assess its results, and improve the understanding of obligations, monitoring of results, and the effectiveness of implementation activities.

Communication Through the Implementation Panel - The biggest success of this body has been its use as a forum for the exchange of views. While not all the talk has led to the resolution of problems, there has been success.

Worst Failures

Legislation for the Institutions of Public Government - A critical prerequisite to effective implementation of large portions of the NLCA. What progress has been made has been acrimonious. A big commitment and a big failure, with no satisfactory reason.

Passive Implementation Management - A systemic problem which has often resulted in ineffective implementation and the triumph of the status quo. There was little translation of implementation responsibilities into standard operating procedures. This was the root cause of a lot of frustration. There has been a general failure to think in terms of effective management.

Ineffective Management by the Implementation Panel - Could have been the best tool for managing and resolving problems. While some successes have been achieved, this body has not lived up to its potential, resulting in delays, wasted effort, and questions about each other's intentions.

Separate Implementation Efforts - Each Party keeps its own list of obligations with only modest efforts to share information, ideas, and resources.

6.2.5 Adaptation of the Parties

If the NLCA is to effect a substantial amount of change in the way the Government and the Inuit interact with each other, then it might be reasonable to expect certain changes in the organizations serving each Party. Extending the thought, it may be possible to assess compliance with intent by examining the changes that did and did not take place within each organization.

Different Challenges

It is important to note that each of the Parties faced a somewhat different challenge in moving its organizational machinery towards implementation effectiveness. Of particular concern, is that there has been little conscious decision-making to change the operations of the Parties' organizations to improve the likelihood of implementation effectiveness.

Another important reality is that the Nunavut Land Claim does not function in a vacuum. For NTI, the Nunavut Land Claim is the primary issue. For the GNWT, the NLCA has been one of several. For the Federal Government, the NLCA is one of many. The balance of the comments in this section need to be read with this in mind, although this is not a statement that the status quo is a suitable option.

NTI

NTI faced the challenge of moving from a relatively small group of decision-makers focussed on negotiating benefits to a larger organization with many delegated responsibilities. Rather than focus on the implementation of the negotiated benefits (admittedly, benefits which are not always well-defined), there is still considerable focus on negotiating benefits in areas which are more appropriately areas of implementation.

While there may still be legitimate issues to be negotiated (no opinion is offered in this regard), mixing negotiations into areas which could be restricted to implementation is contrary to the spirit and intent of the NLCA.

Federal Government

The Federal Government has not shown enough willingness to adapt. There is no comprehensive implementation policy to provide structural support, common support to departments, or systematic instruction to front-line managers.

Within the Federal Government as a Party to the Agreements, there is a decision-making-and-control-complex that intervenes between the principals (i.e., political leaders) and the front-line implementers. This 'complex' has not been properly instructed by the

Principals of Canada to translate statements of good faith into systemic support for the implementation of the Agreements.

The Federal Government's approach is still one of adapting the needs of the Agreements to the existing machinery, without much thought on effective and efficient changes. The traditional notions of governing (e.g., one-policy-fits-all, compartmentalized offices dividing up responsibilities) are still applied to the implementation environment. There are potential solutions, few of which have been given an opportunity to succeed.

GNWT

The GNWT has made a credible effort at adapting traditional notions of government processes. There may still be improvements that can be made, however, the GNWT's adaptations are proving to be useful. There were material gaps in this Party's performance, however, the timely intervention of the central agency contributed to a better overall result than would have otherwise been the case.

Differences in Organizational Culture

There is a significant conflict between the intent of the NLCA (e.g., change, preference, unique processes) and the values present in the organizational culture of government (e.g., conformity of process, cost control, size, and formality), particularly the government offices South of 60. There is not a good understanding of why the Agreements were signed, the challenges faced by the Inuit, and the practical methods for adapting the process of government.

This conflict between intent and organizational culture can be quite stark. It also exists in the GNWT offices (now GN offices), but it is not nearly as prevalent.

In practical terms, there is a need to address these differences if implementation is to be successful. The GNWT has made credible efforts to do so. The Federal Government, which faces larger differences in organizational culture, has not made a sufficient effort to address this issue.

NTI and other implementation organizations could make a better effort at understanding the machinery of the Federal Government and suggesting better ways of interacting.

Status Quo and Active Management

When one considers the heavy impact of bureaucratic inertia on the ability to make the intended changes, only a demonstrated commitment to an active management model can be considered compliant with the spirit and intent of the NLCA.

The concept of actively implementing the required changes is fundamental to the fulfillment of the NLCA.

Conclusions

Overall, NTI and the Federal Government have not been effective in seeking appropriate adaptations to their organizations. This indicates a lack of commitment to the changes intended under the NLCA.

6.2.6 Good Faith from an Organizational Perspective

One perspective on compliance with spirit and intent is to consider the questions:

- How would the Parties conduct themselves if the only concern was to implement the Agreements?
- What would be efficient and effective approaches to ensuring the desired results?

The following indicators constitute a list of the types of activity that might be expected in an organization that sought to be effective. The validity of this approach lies in the concept that organizational behaviour indicates intent.

A 'good faith' effort at focussing on implementation management might create evidence of the following organizational activities.

Effective Advocacy Within - Within a Party, there would be an effective voice for the NLCA. Knowledgeable individuals or a unit in the organization would build knowledge about the implementation environment, the Party's responsibilities under the Agreements, and useful approaches for accommodating the required changes. Such an advocate would also have a good understanding of the other Parties and their operational environment, and would be able to suggest practical means for resolving problems and implementing solutions.

Adaptation of Internal Process - To the extent that implementing the NLCA requires changes, the organization would take a hard look at its internal processes, consider the needs (e.g., due to differences in size) of the other Parties, and consider practical alternatives for adjusting existing administrative systems or communication practices.

Constructive Engagement - The organization would make a genuine attempt to consider the intent of an individual statement, realistic limitations, cost considerations, and the administrative realities of each Party. There would be cordial discussions at the working level, face-to-face discussions about alternatives, and a certain amount of give-and-take within the parameters of each set of discussions. The organization would be a regular, but not exclusive contributor of potential solutions.

Effort at Solutions - There would be an effort to propose practical solutions, not just state positions. There would be a willingness to engage in dispute resolution. There would be a systemic effort across the Party to maintain working relationships as a foundation for solutions.

Effectiveness of Solutions - There would be a track record of effective and well-received solutions proposed by the Party.

Internal Implementation Systems - The organization would have effective management tools and processes in place. These tools would be recognized as key elements in implementation success. There would be effective communication mechanisms for distributing information, updating responsibilities, and monitoring results within the Party.

Access to Decision-Making - Having taken the decision to ratify the NLCA, the Principals of the Party would demonstrate their commitment to implement. There would be a process for managing decisions on implementation matters or for providing direction

about the appropriate organizational culture for implementation. Implementation decisions would be dealt with, at the appropriate level, in a timely and routine manner.

Clarity of Parameters - The Principals of the Party would communicate their higher level expectations for the manner in which implementation activities take place or, put another way, the manner in which good faith implementation will be demonstrated. There would be an identification of the Party's key concerns about implementation (e.g., timeliness of Inuit benefits, cost control) as guidelines and parameters for front-line managers as they go about their implementation activities.

The difficulty in presenting this type of summary assessment is the inherent subjectiveness when attempting to weigh the results of hundreds of events and synthesize a single rating for one of the Parties in each of the areas described. In almost every case, it is possible to identify notable exceptions. In addition, the challenges faced by each Party vary in nature and degree of difficulty.

Another important point is that this type of analysis does not address how well the Parties work in concert, a separate but highly influential determinant of implementation success.

In spite of these challenges, however, this type of analysis is still useful. It provides another perspective on the implementation effort. Without wanting to infer too much from a relatively subjective assessment, it is still possible to take away useful messages.

It is probably reasonable to infer that the GNWT has made a credible effort at implementing the Agreements as an organization (with certain caveats), and that NTI and the Federal Government need significant improvement in how they approach implementation of the Agreements.

Organizational behaviour is only one element of success, but it is an important determinant. It is less important where there are well-defined, time-limited obligations that require only one-off performance. In the case of less well-defined objectives and ongoing obligations, organizational behaviour becomes a key determinant of success.

With the NLCA containing a large number of ongoing obligations, the need for suitable organizational behaviour becomes essential.

Conclusions

Overall, the Parties' actions do not support a full commitment to the 'spirit' and 'intent' of the NLCA.

There are significant deficiencies in each organization's approach to implementation.

Good faith in organizational behaviour is an issue that must be dealt with at the level of the Principals to the Agreements, not the managers hired by the Parties.

Recommendations

The Parties to the Agreements should each commit, at the political level, to the approaches suggested in Section 5.1, The Context for Successful Implementation.

Annex A Summary Matrix of Obligations Summary Matrix of Management Recommendations

This Annex consists of two matrixes. The first summarizes the status and recommendations of each obligation, as set out in Section 2. The second summarizes the issues and management recommendations discussed in Section 5.

These documents are intended to provide a 'birds-eye-view' of the status and recommendations in each area and to assist the Panel and the Parties in taking action.

Summary Matrix of Obligations			
Article	Title	Status	Recommendations
General			
1.1.6	Designation of Government	No occasion to implement.	All Parties should examine their procedures for notification (both obligated and operational) and amend them to meet obligations and operational requirements.
2.6.1	Consultation (Undertakings as to Further Legislative Action)	Has sometimes been met in the past, but is not currently being met.	All Parties should examine their procedures for notification (both obligated and operational) and amend them to meet obligations and operational requirements.
2.10.1	Transfers of Powers Within Same Government	Is being partially met on an ongoing basis.	All Parties should examine their procedures for notification (both obligated and operational) and amend them to meet obligations and operational requirements.
2.10.4	Identification of Government Official	Is being partially met on an ongoing basis.	All Parties should examine their procedures for notification (both obligated and operational) and amend them to meet obligations and operational requirements.
Languages of the Agreement			
2.8.1	Inuktitut, English and French Versions	Has been met.	The Parties should consider mechanisms for wider distribution of amendments to the Agreement. The Parties should consider mechanisms for a consolidation of amendments to the Agreement and Implementation Contract.
Nunavut Political Development			
4.1.1, 4.1.2	General	Has been met.	None.
Nunavut Wildlife Management Board (NWMB)			
5.2.1	Establishment of the NWMB (establishment and appointment activities)	Has been partially met.	None.
5.2.6	Establishment of the NWMB (oath of office)	Is being met on an ongoing basis.	None.
5.2.8	Establishment of the NWMB (reappointments)	Is being met on an ongoing basis.	None. See also Section 5.4.2 , Board Member Appointments – Implementing Bodies.
5.2.19, 5.17	Budgets	Is being partially met on an ongoing basis.	The Parties should consider the recommendations in Section 5.4.6, Funding Arrangements for the IPGs to resolve outstanding financial administration issues.
5.2.20	Remuneration of Members	Is being met on an ongoing basis.	None. See also Section 5.4.6, Funding Arrangements for the IPGs.
5.2.37	Research	Is being met on an ongoing basis.	Where appropriate, Government and the NWMB should develop and implement formalized communication processes.
5.3.7	Legal Effect of Decisions	Is being met on an	None.

Summary Matrix of Obligations

Article	Title	Status	Recommendations
	(Territorial Government Jurisdiction)	ongoing basis.	
5.3.16	Legal Effect of Decisions (Government of Canada Jurisdiction)	Is being met on an ongoing basis.	None.
5.7.32	Disposition of Harvest	Has been met.	None.
Operations of the Nunavut Wildlife Management Board			
5.4.1, 5.4.2, 5.4.3, 5.4.4, 5.4.6, 5.4.9	Nunavut Wildlife Harvest Study.	Is being met on an ongoing basis.	None.
5.5.2	Inuit Bowhead Knowledge Study	Has been partially met.	None.
5.6.18	Total Allowable Harvest	Is being met on an ongoing basis.	None.
5.6.25	Basic Needs Level (beluga, narwhal and walrus)	Is not being met on an ongoing basis.	None.
Harvesting			
5.6.41, 5.6.42	Inuit Guides	Has not been met.	The NWMB should continue to support HTOs and RWOs in the development of positions related to the implementation of obligations. Government should document changes in their administration of current licensing regimes. The recommendations in Section 5.4.5, New and Revised Laws of General Application should be considered.
5.6.45	Limited Entry System	Is being partially met on an ongoing basis.	The NWMB should continue to support HTOs and RWOs in the development of positions related to the implementation of obligations. Government should document changes in their administration of current licensing regimes. The recommendations in Section 5.4.5, New and Revised Laws of General Application should be considered.
5.6.55	Disposal of Valuable Parts – Emergency Kills	Is being partially met on an ongoing basis.	The NWMB should continue to support HTOs and RWOs in the development of positions related to the implementation of obligations. Government should document changes in their administration of current licensing regimes. The recommendations in Section 5.4.5, New and Revised Laws of General Application should be considered.

Summary Matrix of Obligations

Article	Title	Status	Recommendations
Special Features of Inuit Harvesting			
5.7.2	Establishment of HTOs and RWOs	Is being met on an ongoing basis.	The NWMB and NTI should continue to work with RWOs and HTOs to implement obligations.
5.7.4	Each region shall have an RWO	Is being met on an ongoing basis.	None.
5.7.13	Budgets	Is being met on an ongoing basis.	None.
5.7.26, 5.7.28, 5.7.29, 5.7.31, 5.7.36	Licensing and Permit Requirements	Has not been met.	The recommendations in Section 5.4.5, New and Revised Laws of General Application should be considered. In the interim, Government should revise their administrative (or other) procedures to provide operational direction in meeting obligations. The NWMB and NTI should continue to work with RWOs and HTOs to implement obligations.
5.7.34	Assignment (of Inuit Harvesting Rights)	Is being partially met on an ongoing basis.	The NWMB and NTI should continue to work with RWOs and HTOs to implement obligations. In the interim, Government should revise their administrative (or other) procedures to provide operational direction in meeting obligations.
Surface Leases			
5.7.21, 5.7.22	Surface Lease Conditions	Is being met on an ongoing basis.	None.
Rights of First Refusal			
5.8.1, 5.8.2	Rights of First Refusal and to Use Government Land (Sports and Naturalist Lodges)	Is being partially met on an ongoing basis.	The affected territorial and federal departments should establish processes and procedures to implement obligations related to rights of first refusal.
5.8.4, 5.8.5	Right of First Refusal to Establish and Operate Facilities (Propagation, Cultivation and Husbandry)	Is being partially met on an ongoing basis.	The affected territorial and federal departments should establish processes and procedures to implement obligations related to rights of first refusal.
5.8.7	Right of First Refusal to Market (Marketing of Wildlife in the Nunavut Settlement Area)	Is not being met on an ongoing basis.	The affected territorial and federal departments should establish processes and procedures to implement obligations related to rights of first refusal.
5.8.9	Right of First Refusal for Commercial Collection or	Is not being met on an ongoing basis.	The affected territorial and federal departments establish processes and procedures to implement obligations related to rights of first refusal.

Summary Matrix of Obligations			
Article	Title	Status	Recommendations
	Processing of Non-Edible Wildlife Parts (Wildlife Parts and Products)		
Interjurisdictional Agreements			
5.9.2, 5.9.3	Inuit Representation (International Agreements)	Is being partially met on an ongoing basis.	Government should formalize their implementation of these obligations through standing procedures. Government should widely distribute the recommended standing procedures within involved departments.
5.9.5	Role of NWMB (Domestic Interjurisdictional Agreements)	Is being partially met on an ongoing basis.	Government should formalize their implementation of these obligations through standing procedures. Government should widely distribute the recommended standing procedures within involved departments.
Wildlife Compensation			
6.2.3	Designating Official and/or Fund to Assume Liability	Has not been met.	The recommendations in Section 5.4.4, Legislation Establishing the IPGs should be considered.
6.3.4	Limits of Liability in Legislation	Has not been met.	In terms of the substantive issues, the Parties should consider the discussion in Section 5.2.10, Delegation and Tracking of Implementation Management, and the recommendations contained in Section 5.3.4, The Dispute Resolution Processes.
Outpost Camps			
7.2.2	Approvals	Is being partially met on an ongoing basis.	NTI should ensure that all the HTOs and Inuit clearly understand that the NLCA requires HTO approval for new outpost camps. HTOs should work with NTI and the RIAs in developing a communications strategy to make the residents of their communities aware of the definition of an outpost camp and that the NLCA requires them to have the approval of their HTO for outpost camps established after July 9, 1993. HTOs should have written policies and procedures for approving outpost camps.
7.2.4	Site Locations – Parks and Conservation Areas	No occasion to implement.	None.
7.4.1	Government to Make Lands Available	Is being met on an ongoing basis.	None.
7.6.3	Outpost Camps on Archaeological Sites	No occasion to implement.	None.

Summary Matrix of Obligations			
Article	Title	Status	Recommendations
National Parks			
8.2.1	Establishment of National Parks	Has not always been met in the past, but is currently being met.	None.
8.2.2	Establishment of Auyuittuq National Park	Has not been met.	None.
8.2.3	Establishment of Ellesmere Island National Park	Has not been met.	None.
8.2.4	Establishment of North Baffin National Park	Has not been met.	None.
8.2.6	Changes to National Parks	No occasion to implement.	None.
8.2.12	Water Use In National Parks	Has not been met.	None.
Territorial Parks			
8.3.2	General Desirability	No occasion to implement.	None.
8.3.4	Involvement of Inuit in Planning and Management of Territorial Parks in the Nunavut Settlement Area	Is being partially met on an ongoing basis.	The Territorial Government, NTI and RIAs should agree upon a process to involve Inuit and other local residents in the planning and management of Territorial Parks.
National and Territorial Parks			
8.4.2, 8.4.4	Inuit Impact and Benefit Agreements (IIBAs)	No occasion to implement (8.4.2). Is being met on an ongoing basis by the Federal Government (8.4.4). Is not being met on an ongoing basis by the Territorial Government (8.4.4).	The Government of Nunavut, NTI, and the DIO(s) should agree to a definite time-frame in which to negotiate IIBA(s) for both existing and new Territorial Parks. If they are unable to reach agreement within a reasonable time period, then the provisions of 8.4.5 (Conciliator) should be implemented.

Summary Matrix of Obligations

Article	Title	Status	Recommendations
8.4.5	Conciliator	Has not been met by the Federal Government and the DIO. Is not being met on an ongoing basis by the Territorial Government, NTI, and the DIO.	See above 8.4.2, 8.4.4.
8.4.6	IIBAs for Existing Territorial Parks	Has not been met.	The Government of Nunavut and the DIO(s) should agree to a definite time-frame to negotiate IIBA(s) for both existing and new Territorial Parks. If they are unable to reach agreement within a reasonable time period, then the provisions of 8.4.5 (Conciliator) should be implemented.
8.4.7	Renewal of IIBAs	No occasion to implement.	None.
8.4.8	Preferential Treatment To Inuit	Is being met on an ongoing basis.	Federal and Territorial Parks should consider a communications plan to publicize contract awards and associated benefits to Inuit.
8.4.9	DIO Right of First Refusal to Operate Business Opportunities and Ventures	Is not being met on an ongoing basis.	The Federal and Territorial Parks authorities should take action to establish a process for providing the right of first refusal to operate all business opportunities and ventures that are contracted out.
8.4.11	Management	No occasion to implement.	None.
8.4.13	Management Plans	No occasion to implement by the Federal Government. Is being met on an ongoing basis by the Territorial Government.	None.
8.4.16	Publication of Parks Information	No occasion to implement by the Federal Government. Is being met on an ongoing basis by the Territorial Government.	None.
8.4.18	Dedication	Is being met on an ongoing basis.	None.

Summary Matrix of Obligations

Article	Title	Status	Recommendations
Conservation Areas			
9.3.1	Legislation Study	Has not been met.	None.
Conservation and Management			
9.3.2, 9.3.7	Co-Management of Conservation Areas	Is being met on an ongoing basis (9.3.2). Is not being met on an ongoing basis (9.3.7).	The CWS should restructure its joint management committees to conform to the NLCA.
9.4.1	IIBAs and Other Economic Benefits	Is not being met on an ongoing basis.	The Federal Government and NTI should commit themselves to a planned approach for negotiation of IIBAs for all Conservation Areas that meet the "detriment or benefit" test. The Federal Government and NTI should consider merging all or most of the Conservation Area IIBAs into an umbrella IIBA.
9.4.2	Obligation to Conclude	Is not being met on an ongoing basis.	The Federal Government and NTI should commit themselves to a planned approach for negotiation of IIBAs for all Conservation Areas that meet the "detriment or benefit" test. The Federal Government and NTI should consider merging all or most of the Conservation Area IIBAs into an umbrella IIBA.
Conservation Areas			
9.4.3	Publication of Information in Inuktitut and Recognition of Inuit History and Presence in Conservation Areas	Is being partially met on an ongoing basis.	Once the associated IIBAs are in place, the Federal and Territorial Governments should continue implementation.
Thelon Game Sanctuary			
9.5.2	Thelon Game Sanctuary - General	Has not been met.	The Government of Nunavut, NTI, and the DIO should build on work completed to date to conclude the management plan and then commence IIBA negotiations.
Institutions of Public Government			
10.1.1, 10.1.2, 10.2.1, 10.10.1, 10.10.2, 10.10.3	Timetable for Establishment	Has not been met (10.1.1, 10.2.1). Has been partially met (10.10.1). No occasion to implement (10.1.2,	The recommendations in Section 5.4.4, Legislation Establishing the IPGs should be considered.

Summary Matrix of Obligations			
Article	Title	Status	Recommendations
		10.10.2, 10.10.3).	
10.6.2, 10.7.3, 10.8.1	Consolidate, Reallocate, or Vary Certain Administrative Matters	No occasion to implement.	None.
Nunavut Planning Commission (NPC)			
11.4.1, 11.4.5, 11.4.10	Establishment	Has been partially met (11.4.1). Is being met on an ongoing basis (11.4.5). Has been met (11.4.10).	The recommendations in Section 5.4.4, Legislation Establishing the IPGs should be considered. The Panel should monitor the NPC's progress in moving all head office functions to the NSA and take action to ensure implementation of 11.4.2, Head Office.
11.4.3	Budgets	Is being partially met on an ongoing basis.	The recommendations in Section 5.4.6, Funding Arrangements for the IPGs should be considered.
11.4.4	Role and Responsibility	Is being met on an ongoing basis.	The NPC should work with Government to establish procedures under 11.5.6, Ministerial approval.
11.9.1	Waste Clean-up	Is being met on an ongoing basis.	None.
12.7.6	Processing of General Monitoring	Is being partially met on an ongoing basis.	DIAND, the GN, and the NPC should develop action plans for completing all aspects of the General Monitoring Plan, including the location of staff assigned responsibilities for meeting this obligation. The Panel should monitor the NPC's progress in moving all head office functions to the NSA and take action to ensure implementation of 11.4.2, Head Office.
Nunavut Impact Review Board (NIRB)			
12.2.1, 12.2.6, 12.2.10	Establishment of the Nunavut Impact Review Board (NIRB)	Has been partially met (12.2.1). Has been met (12.2.6, 12.2.10).	The recommendations in Section 5.4.4, Legislation Establishing the IPGs should be considered.
12.2.2, 12.2.3, 12.2.4, 12.2.5	Functions	Is being met on an ongoing basis.	Government permitting and licensing agencies should work with the NIRB to improve the implementation of obligations under 12.4.4, Screening of Project Proposals, in the context of 12.2.5, Primary Objectives.
12.2.31, 5.14, 5.15	Budgets	Is being partially met on an ongoing basis.	The recommendations in Section 5.4.6, Funding Arrangements for the IPGs and Section 5.4.7, Implementation Funding Levels should be considered.
12.2.23	By-laws and Procedures	Is being partially met on an ongoing basis.	The recommendations in Section 5.4.4, Legislation Establishing the IPGs should be considered.

Summary Matrix of Obligations			
Article	Title	Status	Recommendations
12.3.1	Relationship to the Land Use Planning Provisions	No occasion to implement.	The NIRB, the NWB, and the NPC should continue discussions to plan for implementation of obligations such as 12.3.1, Relationship to the Land Use Planning Process.
12.4.4	Screening of Project Proposals	Is being partially met on an ongoing basis.	Government permitting and licensing agencies should work with the NIRB to improve the implementation of obligations under 12.4.4, Screening of Project Proposals in the context of 12.2.5, Primary Objectives.
12.6.1, 12.6.2, 12.6.3, 12.6.4	Membership on panels (Review by a Federal Environmental Assessment Review Panel)	No occasion to implement.	None.
12.10.1, 12.10.2, 12.10.3, 12.10.4	Enforcement	Is being partially met on an ongoing basis.	Government permitting and licensing agencies should work with the NIRB to improve the implementation of obligations under 12.4.4, Screening of Project Proposals in the context of 12.2.5, Primary Objectives.
12.11.1, 12.11.2	Agreements Regarding Transboundary Impacts	No occasion to implement.	None.
Schedule 12-1 as it affects 12.3.2, 12.3.3, 12.3.5, 12.10.2	Types of Project Proposals Exempt From Screening	Is being met on an ongoing basis.	The NIRB should build on the success achieved in negotiating memorandum of understanding in relation to Schedule 12-1 and enter into discussions with the Government of Nunavut and other government agencies, as required.
Nunavut Water Board (NWB)			
13.2.1, 13.3.1, 13.3.5	Establishment of Nunavut Water Board (NWB)	Has been partially met (13.2.1). Is being met on an ongoing basis (13.3.1, 13.3.5).	The recommendations in Section 5.4.4, Legislation Establishing IPGs should be considered.
13.3.17, 5.14, 5.15	Budgets	Is being partially met on an ongoing basis.	The recommendations in Section 5.4.6, Funding Arrangements for the IPGs should be considered.
13.10.1	Interjurisdictional Water Use Management (NWB Overlap Agreements)	Has not been met.	None. It is understood implementation of this obligation will be pursued by the parties during the next review period.
Water Management			
13.6.1	Co-ordination of Resource Management Activities	Is being partially met on an ongoing basis.	The NWB, the NIRB, and the NPC should continue their joint efforts to cooperate and coordinate their efforts related to water applications. Government should expedite the approval of the revised draft land use plans submitted for Ministerial approval.

Summary Matrix of Obligations

Article	Title	Status	Recommendations
Municipal Lands			
14.3.1	Conveyance of Build-up Municipal Lands	Has been partially met.	The Government of Nunavut should take a proactive approach in working with municipalities to fully implement outstanding Territorial Government obligations related to the conveyance of municipal lands and to municipal boundaries.
14.3.2	Conveyance of Remaining Municipal Lands	Has not been met.	The Government of Nunavut should take a proactive approach in working with municipalities to fully implement outstanding Territorial Government obligations related to the conveyance of municipal lands and to municipal boundaries.
14.4.1, 14.4.2, 14.4.3	Administration of Municipal Lands	Is being met on an ongoing basis.	None.
14.5.2, 14.5.3	Administration of the 100 foot strip along shoreline of seacoast, navigable rivers and navigable lakes.	Is being met on an ongoing basis.	None.
14.6.1	Municipal Boundaries	Has sometimes been met in the past, but is not currently being met.	The Government of Nunavut should take a proactive approach in working with municipalities to fully implement outstanding Territorial Government obligations related to the conveyance of municipal lands and to municipal boundaries.
14.7.1	Right to Acquire Government Lands	Is being met on an ongoing basis.	None.
14.8.1	Limits on Alienation of Municipal Lands - Referendum	Has been met.	None.
14.8.5	Limits on Alienation of Municipal Land of a Municipality	Is being met on an ongoing basis.	None.
14.10.1	Abandoned Municipalities	No occasion to implement.	None.

Marine Areas			
15.3.1, 15.3.2	Coordinated Management of Migratory Marine Species	Has not been met.	Government should establish formal structure(s) and processes to implement obligations under 15.3.1, 15.3.2, 15.3.4, and 15.3.6.
15.3.4	Wildlife Management in Zones I and II	Is being partially met on an ongoing basis.	Government should establish formal structure(s) and processes to implement obligations under 15.3.1, 15.3.2, 15.3.4, and 15.3.6.
15.3.6	Consultation with the NWMB on Research	Is being partially met on an ongoing basis.	Government should establish formal structure(s) and processes to implement obligations under 15.3.1, 15.3.2, 15.3.4, and 15.3.6.

Summary Matrix of Obligations

Article	Title	Status	Recommendations
15.3.7	Proposals and Applications Allocation of Commercial Fishing Licences Within Zones I and II	Is not being met on an ongoing basis.	None. Litigation is still pending on the 1998 turbot allocations by the Minister.
15.4.1	Marine Management	Is being met on an ongoing basis.	None.
16.1.3	Marine Mammal Population (Outer Land Fast Ice Zone - East Baffin Coast)	Is being met on an ongoing basis.	None.

Title to Inuit Owned Lands			
19.3.3, 19.3.4, 19.4.2, 19.5.1	Record of Vesting of Inuit Owned Lands	Has been partially met.	NTI should designate the QIA as the DIO under 19.5.1.
19.4.1	Grant of Future Inuit Owned Lands	Is being met on an ongoing basis.	None.
19.6.1, 19.6.2	Future grants to Government	No occasion to implement.	None.
19.7.1, 19.7.2	Alienation of Inuit Title	Is being met on an ongoing basis.	None.
19.8.1	Preparation of Descriptive Map Plans	Has been met.	None.
19.8.4	Delivery to Registrar of Descriptive Map Plans	Has been met.	None.
19.8.5	Notification of Vesting	Has been met.	None.
19.8.8, 19.8.9	Surveys	Is being met on an ongoing basis.	Government should examine the use of the isolated boundary standard for surveys being completed under 19.8.8.
19.8.12	Replacing Previous Property Descriptions	Is being met on an ongoing basis.	None.
19.8.17, 19.8.18, 19.8.19	Subsurface Boundary Disputes	No occasion to implement.	None.
19.10.1	Reimbursement (Municipal Land Development Costs)	No occasion to implement.	The Government of Nunavut and the RIAs should establish a process for implementation of 19.10.1, Municipal Land Development Costs, including initiation of the process.

Rights to Carving Stone			
19.9.1, 19.9.2, 19.9.3	Notification of Deposits and Exclusive Quarry Lease or	Is not being met on an ongoing basis.	Government and the RIAs should work together to establish formal processes to implement obligations related to carving stone.

Summary Matrix of Obligations			
Article	Title	Status	Recommendations
Acquisition of Title			
19.9.7	Study of Deposits within Proposed Park Boundaries	No occasion to implement.	Government and the RIAs should work together to establish formal processes to implement obligations related to carving stone.
Entry and Access			
21.2.1	Access Only with Consent	Is being met on an ongoing basis.	None.
21.3.5	Exclusive Possession – Procedures	Is being partially met on an ongoing basis.	Government and NTI should establish a process to implement obligations under 21.3.5, Exclusive Possession. The process used in the development and approval of the agreement for exclusive possession of Marble and Quartzite Islands be considered as a starting point for discussions.
21.3.11	Access for Research for Public Knowledge	Is being met on an ongoing basis.	None.
21.5.2	Obtaining Interest on Inuit Owned Lands by Government	Is being partially met on an ongoing basis.	Governments should establish formal procedures to implement obligations under 21.5.2 and 21.5.5, 21.5.7, and 21.5.9, Obtaining Interest and Government Access on IOL.
21.5.5, 21.5.7, 21.5.9	Government Access	Is being partially met on an ongoing basis.	Governments should establish formal procedures to implement obligations under 21.5.2 and 21.5.5, 21.5.7, and 21.5.9, Obtaining Interest and Government Access on IOL.
21.5.12, 21.5.13	Advance Notice Procedures – Military Manoeuvres	Is being partially met on an ongoing basis.	The DND should revise its distribution list for annual notification about planned military manoeuvres and should establish procedures for notification of community residents by the Rangers.
21.7.2, 21.7.3, 21.7.4, 21.7.5, 21.7.6	Third Party Access – Existing Interests	Is being partially met on an ongoing basis.	DIAND and NTI should pursue discussions related to Third Party Access – Existing Interests with a view to establishing procedures for implementation of these obligations. These discussions may take place in a larger context which includes obligations contained in Article 25.
21.7.9, 21.7.10	Exercise of Third Party Access of Right Respecting Minerals	Has not been met.	DIAND and NTI should pursue discussions about a code to provide for expedited prospecting access in a timely fashion.
21.7.15	Other Commercial Purposes – Access Procedures	Is being met on an ongoing basis.	None.
Surface Rights Tribunal (SRT)			
21.8.1, 21.8.2, 5.14, 5.15, 21.8.7	Establishment of Surface Rights Tribunal (SRT)	Has not been met (21.8.1, 21.8.7). Is being partially met on an ongoing basis (21.8.2, 5.14, 5.15).	The SRT should work with DIAND to address the issue of pre-hearing costs as part of an efficient means of dealing with the hearing process. The recommendations in Section 5.4.4, Legislation Establishing the IPGs and 5.4.6, Funding Arrangements for the IPGs should be considered.

Summary Matrix of Obligations			
Article	Title	Status	Recommendations
Entry and Access			
21.9.3, 21.9.4	Expropriation Procedures	No occasion to implement.	None.
21.9.5	Expropriation of Inuit Owned Land – Reacquiring Lands	No occasion to implement.	None.
21.9.8, 21.9.9	Expropriation: Determination of Compensation	No occasion to implement.	None.
21.9.12	Expropriation: For Public Transportation Purposes	No occasion to implement.	None.
21.9.14	Expropriation Procedures – Within Municipal Boundaries	No occasion to implement.	The Parties should consider the recommendations in Section 5.4.4, Legislation Establishing the IPGs.
Inuit Employment Within Government			
23.3.1, 23.3.2, 23.3.3	Inuit Labour Force Analysis	Has not been met.	The Parties should determine if there is any benefit to completing a labour force study. Alternatively, the Parties should formally amend the Agreements to eliminate the obligation.
23.4.1, 23.4.2	Inuit Employment Plans	Is being partially met on an ongoing basis.	Government should update IEPs and ensure that all requirements of 23.4.2 are met.
23.4.3	Posting Inuit Employment Plans	Is not being met on an ongoing basis.	Government should post current IEPs in all government offices.
23.4.4	Exceptions to Inuit Employment Plans	Has been met.	None.
23.5.1, 23.5.2	Pre-Employment Training Plans	Is not being met on an ongoing basis.	Each government department should prepare a Pre-Employment Training Plan.
23.2.2, 23.6.1	Cooperation and Support Measures	Is not being met on an ongoing basis.	The parties should develop a written plan describing how they will work together to implement Article 23.
23.7.1, 23.7.2	Review, Monitoring, Compliance of Inuit Employment Plans	Is being met on an ongoing basis (23.7.1). No occasion to implement (23.7.2).	None.

Summary Matrix of Obligations			
Article	Title	Status	Recommendations
Procurement Policies			
24.3.1	Government of Canada Policies	Is being partially met on an ongoing basis.	NTI and the Federal Government should commence discussions at the technical level to address the unresolved points of process with respect to Article 24. The NIP should refer those items that cannot be resolved at the working level to representatives of the Parties who are outside the implementation process (see Section 5.1.3, The Separation of Implementation and Negotiation).
24.3.2	Close Consultation	Is not being met on an ongoing basis.	NTI and the Federal Government should commence discussions at the technical level to address the unresolved points of process with respect to Article 24. The NIP should refer those items that cannot be resolved at the working level to representatives of the Parties who are outside the implementation process (see Section 5.1.3, The Separation of Implementation and Negotiation).
24.3.3	Date of Effect	Has not been met.	None.
24.3.5	Respond to Developing Nature	Is not being met on an ongoing basis.	The Parties should develop a common understanding of how to measure the developing nature of Inuit capabilities and define in advance the actions to be taken to adjust the procurement process.

Government Contracts			
24.3.4	Territorial Government Policies	Is being met on an ongoing basis.	None.
24.3.5	Respond to Developing Nature	Is being met on an ongoing basis.	The Parties should develop a common understanding of how to measure the developing nature of Inuit capabilities and define in advance the actions to be taken to adjust procurement practices.
24.3.6	Policy Objectives	Is not being met on an ongoing basis by the Federal Government. Is being met on an ongoing basis by the Territorial Government.	The Federal Government should modify its procurement policies to reflect Article 24.3.6 and any increase in Inuit capabilities.
24.3.7	Consultation with DIO on Policies and Programs	Is being partially met on an ongoing basis.	The Parties should meet to confirm that current programming for access to training, developed outside of NLCA processes, is suitable.
24.4.1	Assist Inuit Firms in Bidding and Contracting Procedures	Is being met on an ongoing basis.	None.
24.4.2, 24.4.3	Opportunities in Bidding on Contracts	Is being partially met on an ongoing basis by the Federal Government.	The Federal Government should modify its contracting policies and practices to allow for bidding on specified portions of larger jobs, and for the submission of bids in Nunavut.

Summary Matrix of Obligations			
Article	Title	Status	Recommendations
		Is being met on an ongoing basis by the Territorial Government.	The Federal Government should notify the DIO when invitational bids are being requested, and the DIO should in turn notify Inuit businesses. The Parties should determine appropriate measures for adapting the requirements of the NLCA to the emerging realities of Internet commerce.
24.5.1, 24.5.2	Include Inuit Firms in Bid Soliciting Lists	Is being partially met on an ongoing basis by the Federal Government. Is being met on an ongoing basis by the Territorial Government (24.5.1). Is not being met on an ongoing basis (24.5.2).	The Federal Government should include Inuit firms in all invitational bid lists. The Federal and Territorial Governments should track which Inuit firms have been successful suppliers for each type of contract.
24.5.3	Fair Consideration of Qualified Inuit Firms	Is being met on an ongoing basis.	None.
24.6.1	Establishment of Federal Bid Criteria	Is being met on an ongoing basis.	None.
24.6.2	Establishment of Territorial Bid Criteria	Is being partially met on an ongoing basis.	The Territorial Government should develop a mechanism for monitoring implementation practice and reporting on contracting, including the consistent application of policies under Article 24.
24.7.1	Prepare and Maintain List of Inuit Firms	Is being partially met on an ongoing basis.	The Parties should re-examine and document procedures for the distribution of the list of Inuit firms, both between and within the Parties.
24.8.1	Monitoring and Evaluation of the Implementation of this Article	Is not being met on an ongoing basis.	The Parties should develop measures to monitor both implementation practice and results, and begin a program to evaluate the success of Article 24.
24.9.3	Review of Effects of Implementation of Article 24	No occasion to implement.	The Parties should develop measures to monitor both implementation practice and results, and begin a program to evaluate the success of Article 24. The Parties should make the Nunavut business community aware of the time-limited nature of Article 24.
Resource Royalty Payments			
25.1.1	Inuit Right to Royalty	Is being met on an ongoing basis.	None.
25.2.1, 25.2.2	Payment to the Nunavut Trust	Is being met on an ongoing basis	Trust management should arrange for the periodic review of the Government calculations by the Auditor General.

Summary Matrix of Obligations			
Article	Title	Status	Recommendations
25.2.3	Timing of Payments	Is not being met on an ongoing basis.	The Federal Government should make resource royalty payments in the same quarter as received.
25.2.4, 25.2.5	Verification of Payments	Is not being met on an ongoing basis.	If detailed resource royalty calculations are not provided to the Nunavut Trust, Trust management should request the Auditor General verify the accuracy of past calculations.
Resource Royalty Sharing			
25.3.1	Consultation	Has been met.	Once the Federal Government has decided that changes are likely, NTI should be notified in a timely manner.
Inuit Impact and Benefit Agreements			
26.4.1	Negotiations in Good Faith	Is being met on an ongoing basis.	None.
26.6.2, 26.6.3	Appointment of Arbitrator	No occasion to implement.	None.
26.8.1, 26.8.2	Coming into Effect	Is being met on an ongoing basis (26.8.1). No occasion to implement (26.8.2).	None.
26.11.3	Early Project Start-up	No occasion to implement.	NTI and RIAs should monitor potential projects to ensure that a DIO is in place, with sufficient time, to properly prepare for the negotiation of an IIBA. NTI, DIOs, and Government should apply the lessons learned from negotiating the ULU IIBA to future IIBA negotiation processes.
Natural Resource Development			
27.1.1	Establish Process to Open Lands for Petroleum Exploration	Is being met on an ongoing basis.	None.
27.1.2	Exercise of Petroleum Rights	No occasion to implement.	None.
Northern Energy and Minerals Accords			
28.1.1	Nunavut Tungavik Representatives	Has been partially met.	NTI and Government should commit to concluding the accords within a set schedule.

Summary Matrix of Obligations			
Article	Title	Status	Recommendations
The Nunavut Trust			
31.1.1, 31.1.3, 31.1.4, 31.1.6	Establishment of Trust	Has been met.	None.
31.2.1	Access to Information	Is being partially met on an ongoing basis.	The Nunavut Trust should be more open and accessible with its information and should take a stronger role in communicating information on the Trust, its activities, and its beneficiaries. The Nunavut Trust should make arrangements with NTI's communications section to put the information required in Article 31.2.1 of the Agreement on NTI's web site.
Nunavut Social Development Council			
32.2.1	Government Obligations	Has sometimes been met in the past, but is not currently being met.	The NSDC should work with NTI to identify its role and responsibilities in relation to other interested Inuit organizations, in order to assist Government with the implementation of their obligations under 32.2.1.
32.3.1	Establishment of the Council	Has been met.	None.
32.3.4	Annual Report	Has been met.	None.
Archaeology			
33.3.1	Inuit participation – Policy and legislation development	Is being met on an ongoing basis.	Government should consult with the IHT and pass the legislation required by Part 3 of the Article. Clear instructions should be given to the drafters as to the parties' wishes.
33.4.1, 33.4.2, 33.4.3, 33.4.4	Establishment of the Inuit Heritage Trust	Has been met (33.4.1, 33.4.2, 33.4.4). Is being partially met on an ongoing basis (33.4.3).	IHT consulting with stakeholders should develop and implement a plan for the funding, design, construction, staffing and operation of a facility suitable to provide safekeeping, conservation, maintenance, restoration and display of archaeological sites and specimens.
33.4.5	Access to information	Is being met on an ongoing basis.	None.
33.5.1, 33.5.2	Permit system	Is being partially met on an ongoing basis (33.5.1). Has not been met (33.5.2).	Government should consult with the IHT and pass the legislation required by Part 3 of the Article. Clear instructions should be given to the drafters as to the parties' wishes.
33.5.3, 33.5.4, 33.5.5, 33.5.6	Processing of permit applications for archaeological activity	Is being met on an ongoing basis.	Government should consult with the IHT and pass the legislation required by Part 3 of the Article. Clear instructions should be given to the drafters as to the parties' wishes.
33.5.7	Conditions on granting	Is being met on an	None.

Summary Matrix of Obligations			
Article	Title	Status	Recommendations
	permits for archaeological activity	ongoing basis.	
33.5.8	Processing of permit applications for archaeological activity	No occasion to implement.	None.
33.5.9	Permit system	Has not been met.	Government should consult with the IHT and pass the legislation required by Part 3 of the Article. Clear instructions should be given to the drafters as to the parties' wishes.
33.5.10	Inuktitut translations of agency's publications	Is being met on an ongoing basis.	None.
33.6.1	Employment and Contracting	Is being met on an ongoing basis by the Territorial Government. No occasion to implement by the Federal Government.	NITC, working with IHT, should develop, fund, and implement a plan which will assist Inuit to fill the professional and technical roles associated with the archaeological obligations.
33.6.2	Minimum Requirements of Employment and Contracting	No occasion to implement.	NITC, working with the IHT, should develop, fund, and implement a plan which will assist Inuit to fill the professional and technical roles associated with the archaeological obligations.
33.7.4, 33.7.5, 33.7.6, 33.7.7	Title in archaeological Specimens	No occasion to implement (33.7.4, 33.7.5). Is being met on an ongoing basis (33.7.6, 33.7.7).	Government should consult with the IHT and pass the legislation required by Part 3 of the Article. Clear instructions should be given to the drafters as to the parties' wishes.
33.8.1, 33.8.2, 33.8.3, 33.8.4	Possession of Specimens	Has sometimes been met in the past, but is not currently being met (33.8.1). No occasion to implement (33.8.2, 33.8.3, 33.8.4).	IHT consulting with stakeholders should develop and implement a plan for the funding, design, construction, staffing, and operation of a facility suitable to provide safekeeping, conservation, maintenance, restoration, and display of archaeological sites and specimens.
33.9.1, 33.9.2	Place Names	Has not always been met in the past, but is currently being met.	None.

Summary Matrix of Obligations			
Article	Title	Status	Recommendations
Ethnographic Objects and Archival Materials			
34.2.1	Employment and Training	No occasion to implement.	None.
34.3.1, 34.3.2, 34.3.3, 34.3.4	Lending of Ethnographic Objects	Has sometimes been met in the past, but is not currently being met (34.3.1). No occasion to implement (34.3.2, 34.3.3, 34.3.4).	IHT consulting with stakeholders should develop and implement a plan for the funding, design, construction, staffing, and operation of a facility suitable to provide safekeeping, conservation, maintenance, restoration, and display of ethnographic and archival material.
34.4.1	Loan of Archival Materials	No occasion to implement.	IHT consulting with stakeholders should develop and implement a plan for the funding, design, construction, staffing, and operation of a facility suitable to provide safekeeping, conservation, maintenance, restoration, and display of ethnographic and archival material.
Enrolment			
35.2.1, 35.8.2	Establishment of Inuit Enrolment List	Is being met on an ongoing basis.	The Enrollment Coordinator should: <ul style="list-style-type: none"> ➤ Complete the new database to improve reporting and assist with control processes; ➤ Institute better control over additions, deletions, and transfers; and, ➤ Review and improve the completeness of enrollment records.
35.3.4, 35.3.6	Coordination and Maintenance of the Lists	Has been met.	See recommendations to 35.2.1 above.
35.7.1, 35.7.2	Publication of Inuit Enrolment List	Has not always been met in the past, but is currently being met.	See recommendations to 35.2.1 above.
35.4.1, 35.4.3, 35.4.4, 35.4.5	Establishment of Community Enrolment Committees	Is being met on an ongoing basis.	The Enrollment Committees should document (or adopt) their operating procedures. The Enrollment Coordinator should: <ul style="list-style-type: none"> ➤ Periodically review the operations of each committee versus its own documentation; and, ➤ Encourage each CEC to keep minutes and file the minutes with the enrollment office.
35.6.1, 35.6.2, 35.6.3, 35.6.4	Proceedings of Committees	Is being met on an ongoing basis.	The Enrollment Committees should document (or adopt) their operating procedures. The Enrollment Coordinator should: <ul style="list-style-type: none"> ➤ Periodically review the operations of each committee versus its own documentation; and, ➤ Encourage each CEC to keep minutes and file the minutes with the

Summary Matrix of Obligations			
Article	Title	Status	Recommendations
			enrollment office.
35.5.1, 35.5.2, 35.5.4	Establishment of Appeals Committee	Is being met on an ongoing basis.	The Enrollment Coordinator should maintain complete documentation on all aspects of the appeals process.
35.5.5, 35.5.7	Appeals	Is being met on an ongoing basis.	The Enrollment Coordinator should maintain complete documentation on all aspects of the appeals process.
35.8.1	Payment of Expenses	Has been met.	None.
Implementation Panel			
37.3.1, 37.3.2, 37.3.3	Establish Panel	Has been met (37.3.1). Is being met on an ongoing basis. (37.3.2) Is being partially met on an ongoing basis (37.3.3).	Observations and recommendations are contained in Section 5.2, Panel Issues.
37.3.4	Costs of the Implementation Panel	Is being met on an ongoing basis.	None.
Implementation			
37.5.1	Establish Nunavut Implementation Training Committee	Has been met.	The Panel should form a Task Group to determine if a consensus exists between the NITC and its client group on the type of services that the client group would like to receive. The Panel should instruct the NITC, through its training plans, to comply with the recommendations of the Task Group. In the absence of compliance, the Parties should agree to amend the NLCA in a manner that ensures compliance.
37.5.2	Establish Nunavut Implementation Training Committee	Is being met on an ongoing basis.	
37.6.1, 37.6.2, 37.6.3	Conducting Inuit Implementation Training Study	Has been met.	
37.7.1, 37.7.2, 37.7.4	Develop Implementation Training Plan	Has been met.	
37.8.1, 37.8.2, 37.8.3, 37.8.4	Establish Implementation Training Trust	Has been met.	
Transition Period for NPC, NIRB, and NWB			
4.1, 4.2, 4.3,	Establishment	Has been met (4.1,	None.

Summary Matrix of Obligations			
Article	Title	Status	Recommendations
4.4, 4.5, 4.6	(Implementation Contract)	4.2, 4.4, 4.6). Has been partially met (4.3, 4.5).	
Establishment of Arbitration Board			
38.1.1, 38.1.2, 38.1.3, 38.1.4, 38.1.5	Establish the Board	Has not always been met in the past, but is currently being met.	The recommendations in Section 5.3.4, The Dispute Resolution Processes should be considered.
38.1.7	Staff, Budgets and Expenses	Has been met.	The recommendations in Section 5.3.4, The Dispute Resolution Processes should be considered.
38.3.1	Rules and Procedures	Has been met.	None.
38.3.3, 38.3.6	Establishment of Arbitration Panels	No occasion to implement.	The recommendations in Section 5.3.4, The Dispute Resolution Processes should be considered.
38.3.14	Record of decisions	No occasion to implement.	None.
Inuit Organizations			
39.1.5	Record of Inuit Organizations	Has not always been met in the past, but is currently being met.	NTI should improve the accessibility to DIO lists (for example, including this information on a web site). NTI should provide more regular updates of the DIO list to Government and the NIP. Governments and NTI should formalize their processes for distribution of DIO lists between and within the Parties.
Other Aboriginal Peoples: Inuit of Northern Quebec			
40.2.9	Jointly Owned Lands	Is being met on an ongoing basis.	None.
40.2.12	Benefits in Areas of Equal Use and Occupancy	Is being met on an ongoing basis	None.
Contwoyto Lake Lands			
41.1.1	General	Has not been met.	None. Since the end of the review period, the title has been transferred to the KitlA.
Manitoba Area East of Manitoba			
42.2.2, 42.2.4,	Inuit Harvesting Rights	Has not been met.	Government and the Keewation RWO should develop an action plan for

Summary Matrix of Obligations			
Article	Title	Status	Recommendations
42.2.9			implementation during the next review period.

Summary Matrix of Management Recommendations		
Section	Description	Recommendations
The Context for Successful Implementation		
5.1.1	An Active Management Model	<p>The Parties should commit to using an active management model, including:</p> <ul style="list-style-type: none"> ➤ An up-to-date and effective implementation plan; ➤ A manager dedicated to seeing that all aspects of the claim are implemented; ➤ The anticipation of problems and timely direction; ➤ Consistent and timely reporting; ➤ Consistent and timely definition and resolution of concerns; and, ➤ Well thought-out and timely decisions by the Panel. <p>The Parties should commit to resolving disputes in a timely fashion, using the suggested dispute resolution process (see Sections 5.2.10, 5.2.14 and 5.3.4).</p>
5.1.2	Joint Implementation	<p>The Parties should commit to a joint implementation approach, including:</p> <ul style="list-style-type: none"> ➤ Jointly identifying obligations and tracking their status; ➤ Using all-party working groups of front-line managers as the first step in achieving implementation results; and, ➤ Using a collaborative approach to explore for options that are suitable to each Party.
5.1.3	The Separation of Implementation and Negotiation	<p>The Parties should commit to separating implementation and negotiating issues by:</p> <ul style="list-style-type: none"> ➤ Defining a clear implementation management process, including the formal hand-off of issues when there is a need for negotiations between the representatives (e.g., legal and political) of each Party; ➤ Adding a degree of independence and neutrality to the implementation management process; and, ➤ Separating the implementation and negotiating functions within their organizations.
Panel Issues – Role and Responsibilities		
5.2.1	The Panel’s Role	<p>The Parties should agree that the role of the Panel will change to allow for an active, centrally managed approach to implementation activities.</p> <p>The Parties should agree to make whatever changes are necessary for the Panel to effectively perform its new role.</p>
5.2.2	Project Management Responsibilities	<p>The Parties should formally task the Panel with responsibility for the project management function.</p> <p>The Parties should require the Panel to produce an Annual Implementation Plan.</p> <p>The Panel should hire a Project Manager with a mandate to obtain a formal sign-off on each obligation.</p> <p>The Panel should design and implement appropriate project management tools and processes.</p>

Summary Matrix of Management Recommendations

Section	Description	Recommendations
Panel Issues – Planning and Organizing		
5.2.3	An Annual Implementation Plan	<p>The Panel should approve an Annual Implementation Plan each year, including a schedule of key implementation milestones for wide circulation.</p> <p>The Parties and the Panel should use the Annual Implementation Plan as the primary yardstick for measuring progress at the end of the year.</p>
5.2.4	An Independent Chair	The Parties should retain a long-term Chairperson, with whom all Parties agree they can work, to actively manage the implementation effort.
5.2.5	Panel Membership	<p>Both the Parties and the Panel members should be asked to make a multi-year commitment to Panel membership.</p> <p>All Parties should choose their Panel members according to the suggested seniority and effectiveness characteristics.</p> <p>The Panel should provide its new members with an extensive orientation on the status of the implementation results, the full extent of the implementation process, and the concerns of all Parties.</p>
5.2.6	Panel Support Functions	<p>The Parties should agree that the Panel have a small, independent support staff with the following skills:</p> <ul style="list-style-type: none"> ➤ Project management; ➤ Communications; ➤ Financial analysis and funding assessment; ➤ Computer systems development and support; ➤ Managing interactions with bureaucracies; ➤ Administrative support; and, ➤ Training.
5.2.7	The Mechanics of an Independent Chair and Panel Support Staff	None. See also 5.2.6 and 5.2.16.
Panel Issues – Operating		
5.2.8	Administration Basics – of the Panel	The Panel should develop a set of standard operating procedures describing the responsibilities of Panel staff and selected staff from each Party.
5.2.9	Central Identification and Monitoring of Objectives	The Panel should create a common database for tracking all relevant information associated with each obligation.

Summary Matrix of Management Recommendations

Section	Description	Recommendations
		The Panel should make the database accessible to a wide audience, including all front-line managers with implementation responsibilities, and possibly the public.
5.2.10	Delegation and Tracking of Implementation Management	<p>The Panel should document and encourage the Parties to make use of a system for delegating and managing obligations through the following avenues:</p> <ul style="list-style-type: none"> ➤ Delegation to front-line managers; ➤ The use of a standing Working Group; ➤ The formation of ad hoc task groups; ➤ Resolution by the Panel itself; and, ➤ Referral to the dispute resolution processes. <p>The Parties should report on their unresolved differences each year.</p>
5.2.11	Financial Management Responsibilities	<p>The Panel should develop, with the assistance of the Parties, a full picture of all financial information in the implementation environment, including the implementation budgets and expenditures of each of the Parties and any implementation-related bodies.</p> <p>The Panel should ensure it has a staff person with the capability of providing financial analysis and advice.</p>
Panel Issues – Reporting		
5.2.12	The Panel's Annual Report	<p>As the primary accountability document for implementation of the NLCA as a whole, the Panel's Annual Report should be restructured to include:</p> <ul style="list-style-type: none"> ➤ A restatement of the goals and objectives put forth in the Annual Implementation Plan; ➤ Analysis of the results achieved versus each objective; ➤ A summary of key impact measures; ➤ A complete financial picture of all financial expenditures, regardless of source; ➤ An independent commentary by an independent Chair of the Panel; ➤ Commentaries from each of the Parties; ➤ A summary of the status of each obligation; and, ➤ A summary of all outstanding disputes.
5.2.13	Communication and Transparency	<p>The Panel should share its minutes, decisions, and related documents electronically with other implementation-related bodies, and vice versa.</p> <p>The Panel should publish most information in the common database, setting out the status of individual obligations on the Internet.</p> <p>The Panel should take a lead role in enabling implementation organizations to improve the sharing of</p>

Summary Matrix of Management Recommendations

Section	Description	Recommendations
		information by establishing common practices and tools for using the Internet.
Panel Issues – Corrective Action		
5.2.14	Intervention by the Panel	The Panel should agree in advance when and how it will intervene in the implementation process. The Panel should set out a flexible process for managing emerging issues, and taking action between meetings.
Panel Issues – Commitment and Resources		
5.2.15	A Five Year Commitment to the Active Management Model	The Parties should agree to constructively engage each other with the active management model for the next five years, with no obligation to continue the approach after that time. The Parties should assess the results of the active management model as part of the next 5 Year Review.
5.2.16	Resource Requirements	The Federal Government should fund the functions proposed for the Implementation Panel.
Organizing for Implementation (Beyond the Panel)		
5.3.1	The Central Agency Implementation Model	The Federal government should manage its implementation effort through a central agency. The Federal Government should set up an interdepartmental working group to coordinate and communicate issues related to the NLCA.
5.3.2	Management of NTI Responsibilities	NTI should develop better monitoring, communication, and support processes for managing the responsibilities delegated to the DIOs. NTI should consider managing its obligations through the joint tracking system suggested in Section 5.2.9, Central Identification and Monitoring of Objectives. NTI board of directors should become more involved in the leadership of the implementation effort. NTI should consider more of a project management focus in its leadership style for the implementation effort.
5.3.3	Applying the Right Skill Sets	All Parties should enable managers and technical specialists to take lead roles in managing the implementation effort. All Parties should make an effort to look first for practical, on-the-ground implementation solutions.

Summary Matrix of Management Recommendations

Section	Description	Recommendations
5.3.4	The Dispute Resolution Processes	The Parties should reserve legal approaches to resolving problems for instances of intransigence. The Arbitration Board should select a non-partisan Chair. The Parties should not appoint individuals with direct ties to them to the Arbitration Board. The Parties should enumerate their differences and submit a series of unresolved issues to the Arbitration Board as a means of establishing its usefulness as an economical means of dispute resolution. The Principals of the Agreements should meet annually to review the list of items referred by the Panel to the dispute resolution processes. The Panel should report annually on unresolved matters it has referred to the dispute resolution processes.
5.3.5	Knowledge of the Implementation Environment	The Parties should document and systematically update the body of knowledge surrounding the NLCA. The Parties should package and routinely disseminate the body of knowledge surrounding the NLCA for different audiences (e.g., job orientation, public communications, and decision-makers).
5.3.6	Corporate Memory	The Panel should act as a resource to the implementation environment, by performing the following functions: ➤ Maintaining a joint database on all obligations; ➤ Providing training and orientation to representatives of the Parties, and public information on implementation matters; ➤ Leading a higher level of electronic communication and information sharing; and, ➤ Working to improve records management across the implementation effort.
5.3.7	Administrative Basics – in the Implementation Environment	All organizations involved with implementation review their administrative infrastructure and make adjustments to ensure the “basics” are in place. Where appropriate, the parties in the implementation environment should make use of the administrative support tools developed by the Panel. A Task Group, under the auspices of the Panel, should be formed to look at relatively non-intrusive methods for improving and coordinating administrative functions in the implementation environment.
Other Issues		
5.4.1	Focus on Implementation	All Parties should be more open to a ‘try it and see’ approach.

Summary Matrix of Management Recommendations

Section	Description	Recommendations
	Results	All Parties should examine the assumptions which underlie their actions, particularly in areas of controversy, to determine if old, pre-Agreement attitudes are still driving decisions. NTI should lead by example, measuring and reporting its own performance on a selection of high profile issues, such as Inuit employment and contracting.
5.4.2	Board Member Appointments – Implementing Bodies	Where appointment or reappointment procedures are not in place, Governments should establish them. Government, at all levels, should commit to the timely appointment and reappointment of board members to promote uninterrupted operations by the implementing bodies.
5.4.3	Consultation	When consultation is involved in the implementation of an obligation, those involved should identify the intended results of consultation and the process to be followed. Consultation plans should be recorded in the common database of implementation obligations and activities. The Panel should note deficient consultations in its Annual Report. The Panel should structure a range of consultation options and develop guidelines for matching circumstances with consultation approaches.
5.4.4	Legislation Establishing the Institutions of Public Government	NTI and the Federal Government adopt a new approach to “close consultation” on the drafting of IPG legislation. The recommendations of Section 5.4.3, Consultation, apply but should not limit the Parties in considering elements of NTI’s proposed approach.
5.4.5	New and Revised Laws of General Application	Government should develop plans to revise laws of general application in the next review period. Government should submit these plans to the Panel as part of the management process recommended in Sections 5.2.2, Project Management Responsibilities and 5.2.3, An Annual Implementation Plan. The Panel should review the Federal Government’s practices related to non-derogation clauses and decide if it considers this to be an implementation issue.
5.4.6	Funding Arrangements for the IPGs	The Panel should agree that Federal Government financial administration policies in dispute do not apply to the IPGs, and the Federal Government should arrange its internal affairs so that compliance is not a problem. In the absence of an agreement on the administrative arrangements for funding, each Party should put forth a proposal and the Arbitration Board be asked to make a decision.
5.4.7	Implementation Funding	The NIRB should make funding submissions to the Panel to address its concerns.

Summary Matrix of Management Recommendations

Section	Description	Recommendations
	Levels	The Panel should develop an operating budget based on the functions and tools recommended earlier.
5.4.8	Inuit Impact and Benefit Agreements (IIBAs) – National and Territorial Parks	Where implementation issues become negotiating issues, managers of Inuit organizations should consider cost implications in the mandates given to negotiating teams, and should monitor progress and costs accordingly. The Government of Nunavut definitively identify Territorial Parks in the NSA that relate to implementation obligations.
Implementation of Article 24		
5.5.1	The Intent of Article 24	The Parties should renew their efforts to implement Article 24, taking into consideration the need for improvement noted in Section 2, Status of Implementation Obligations.
5.5.2	Areas Requiring Attention	
5.5.3	Consultation	
5.5.4	Communication	The Parties should develop the information needed to manage Article 24 effectively and a common understanding on how this information will be exchanged.
5.5.5	Getting the Current Practices Right	
5.5.6	Reporting and Monitoring	The Federal Government should assign responsibility for making internal changes such that specified crown corporations are instructed to comply with Article 24.
5.5.7	Learning and Applying the Lessons of Implementation	
5.5.8	A Plan for the Orderly Phase-Out of Article 24	The Panel should set up a Task Group to address issues related to the evolving capabilities of Inuit firms, notification practices, the reality of Internet commerce, and access to Article 24 related training. The Panel should set up a Task Group to implement the monitoring of Article 24 and its impact. The Panel should publicize the time-limited nature of Article 24 and begin planning its phase-out.

Annex B

Definitions and Acronyms

Agreement	- The Nunavut Land Claims Agreement - (a.k.a. Nunavut Final Agreement)
The Agreements	- The NLCA and the Contract
CEAA	- Canadian Environmental Assessment Agency
CMC	- Canadian Museum of Civilization
Contract	- Implementation Contract - (a.k.a. The Implementation Plan)
CWS	- Canadian Wildlife Service
DEW	- Distant Early Warning
DFO	- Department of Fisheries and Oceans
DIAND	- Department of Indian and Northern Affairs
DIO	- Designated Inuit Organization
DMP	- Descriptive Map Plans
DND	- Department of National Defence
EARP	- Environmental Assessment and Review Process (or Panel)
EC	- Environment Canada
EC&E	- Education, Culture and Employment
FEARO	- Federal Environmental Assessment and Review Office
FMBS	- Financial Management Board Secretariat
GN	- Government of Nunavut
GNWT	- Government of the Northwest Territories
H&SS	- Health and Social Services
Housing	- Northwest Territories Housing Corporation
HRDC	- Human Resources Development Canada
HTO	- Hunters and Trappers Organization

IEP	- Inuit Employment Plan
IHT	- Inuit Heritage Trust
IIBA	- Inuit Impact and Benefit Agreement
IOL	- Inuit Owned Land
IPG	- Institution of Public Government
Justice	- Department of Justice
KitIA	- Kitikmeot Inuit Association
KivIA	- Kivalliq Inuit Association
LUP	- Land Use Plan
MAA	- Ministry of Aboriginal Affairs
MACA	- Municipal and Community Affairs
NFA	- Nunavut Final Agreement
NIP	- Nunavut Implementation Panel
NIRB	- Nunavut Impact Review Board
NIRBTT	- Nunavut Impact Review Board Transition Team
NITC	- Nunavut Implementation Training Committee
NLCA	- Nunavut Land Claims Agreement
NPA	- Nunavut Political Accord
NPC	- Nunavut Planning Commission
NPCTT	- Nunavut Planning Commission Transition Team
NRCAN	- Natural Resources Canada
NSA	- Nunavut Settlement Area
NSDC	- Nunavut Social Development Council
NTI	- Nunavut Tunngavik Incorporated
NUHRDS	- Nunavut Unified Human Resource Development Strategy
NWB	- Nunavut Water Board

NWBTT	- Nunavut Water Board Transition Team
NWMB	- Nunavut Wildlife Management Board
NWT	- Northwest Territories
OTJ	- on the job
Panel	- Nunavut Implementation Panel
Party/Parties	- NTI and the Federal Government, and in the context of the Contract, NTI, the Federal and Territorial Governments
party/parties	- those bodies having responsibility for implementing obligations under the Agreements
PTP	- Pre-Employment Training Plan
PWS	- Public Works and Services, GNWT
PWGS	- Public Works and Government Services, Federal Government
QIA	- Qikiqtani Inuit Association
RCMP	- Royal Canadian Mounted Police
Review	- Implementation of the Nunavut Land Claim Agreement: An Independent 5 Year Review, 1993 – 1998 (a.k.a. 5 Year Review)
RIA	- Regional Inuit Association
RWED	- Resources, Wildlife and Economic Development
RWO	- Regional Wildlife Organization
SRT	- Surface Rights Tribunal

Annex C - Consultations

Cambridge Bay
James Eetoolook
Allen Maghagak
Carson Gillis
Laurie Pelly
Wayne Johnson

First Vice-President, NTI
Executive Assistant, NTI
Lands Manager, NTI
Director of Legal Services, NTI
Minerals Resources Manager, NTI

Luke Coady

Executive Director, NPC

Joe Ahmad

Executive Director, NIRB

Fred Elias
Clare Basler
Stephanie Briscoe

Executive Director, KitlA
General Manager, KitlA
A/Lands Manager, KitlA

Gjoa Haven
Philippe diPizzo

Executive Director, Nunavut Water Board

Kugluktuk
Ida Ayalik-McWilliam

Executive Director, Kitikmeot Hunters and Trappers Association

Iqaluit
Bruce Gillies
Andrew Tagak
Hagar Idlout Sudlovenick
Leena Evic-Twerdin
Irene Adams
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Director of Implementation, NTI
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David Kunuk

Executive Director, QIA
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Doug Stenton

Executive Director, Inuit Heritage Trust

Ben Kovic
Jim Noble
Johnny McPherson

Chair, NWMB
Executive Director, NWMB
Coordinator, Harvest Study, NWMB

Stephen Atkinson
David Montieth

Assistant Director, Wildlife, RWED
Assistant Director, Parks, RWED

Patricia Angnakak
Rachel Mark

Chair, SRT
Chief Administrative Officer, SRT

Andrew Tagak

Chair, Arbitration Board

Terry Audla
Laura Gauthier

Panel Member, Territorial Government
Assistant Deputy Minister, Executive, GN

Jack Hicks	Territorial Statistician, Executive, GN
Gary Weber	Area Manager, DFO
Bruce Rigby	Regional Office, Parks Canada
Rankin Inlet	
Raymond Ningeocheak	Second Vice President, NTI
Bernadette Tungilik	Vice President of Finance, NTI
Brian McLeod	Manager Business Development, NTI
Solomon Awa	Enrollment Coordinator, NTI
Paul Kaludjak	President, KivIA
Tongola Sandy	Land Manager, KivIA
Annie Tattuinee	Executive Director, NITC
Arviat	
Mary K. Pameolik	Executive Director, Keewatin Wildlife Federation
Yellowknife	
Mark Warren	Former Panel Member, Territorial Government
Terry Hall	Implementation Coordinator, Aboriginal Affairs
Scott Alexander	Implementation Coordinator, Aboriginal Affairs
Daryl Green	Senior Advisor (Procurement), PWS
Dennis Malloy	Contracts Manager, Transportation
Mark Prystupa	Manager, Land Claims and Self-Government, RWED
Chuck Arnold	Executive Director, Northern Heritage Centre
Leslie Allen	Assistant Deputy Minister, EC&E
Bryan Johnson	Apprenticeship Programs, EC&E
Colonel Pierre Leblanc	Commander, Canadian Forces Northern Area, DND
Captain Rick Regan	Operations Officer, Canadian Forces Northern Area, DND
Ian MacCrae	Lands, MACA
Gerald Reid	Lands, MACA
Gail Cyr	Lands, MACA
Andy Tereposky	Lands, MACA
Gary MacDougall	Land Titles, Justice, GNWT
Janis Cooper	Legal Counsel, Justice, GNWT
Jim Umpherson	Intergovernmental Affairs Specialist, DIAND
Maureen Beauchamp	Lands Specialist, DIAND
Kevin McCormick	Chief, Northern Conservation Division, Environment Canada

Laura Johnston	Environmental Protection Branch, Environment Canada
Marie Christine Robidoux	Head, Client Services (NWT), Natural Resources Canada
Ottawa	
John Merritt	Panel Member, NTI
Lois Leslie	Former Panel Member, NTI
Terry Henderson	Director General, Claims Implementation, DIAND
Aideen Nabigon	Former Panel Member, Federal Government
Keith Sero	Panel Member, DIAND
Maureen Dawson	Manager, Nunavut Implementation, DIAND
Marilyn Watters	Policy Advisor, Nunavut, DIAND
Ron Bailey	Former Policy Coordinator for Nunavut, DIAND
	Northern Program, DIAND
Mimi Fortier	Director, Northern Oil and Gas Directorate, DIAND
George McCormick	Senior Environmental Advisor, DIAND
Walter Isotolo	Northern Relations Officer (Oil & Gas), DIAND
Bob Gamble	Negotiator, Park IIBAs, DIAND
Mary Cronkovich	Negotiator, Baffin Parks, QIA
David Murray	Manager of Nunavut Ecosystems, Parks Canada
Peter Sops	Senior Policy Analyst, HRDC
Steven Alexander	Treasury Board
Jason Won	Treasury Board
Pamela Simpson	Treasury Board
Martin Dunn	Deputy Director, Procurement Policy Division, Treasury Board
Tom Simper	Chief of Procurement, PWGS
Heather Harrison	Supply Policy Directorate, PWGS
Lise Rieger	Policy Advisor, PWGS
David Morrison	Curator in Charge, Canadian Museum of Civilization
Richard Russell	Native Affairs Coordinator, Environment Canada
Brian Wong	Fisheries Management, DFO
Gilles Champoux	Program Manager (Aboriginal Claims), DND
Andy Campbell	Executive Director, Nunavut Trust
Fern Elliot	Comptroller, Nunavut Trust
Edmonton	
Shanon Armitage	Program Advisor, Aboriginal Issues, PWGS
Dennis Ashuk	Program Advisor, PWGS

Other Locations

Richard Saunders Chair, Cree-Naskapi Commission

Notes: In a few cases, interviews were conducted jointly.

 In several cases, there were multiple interviews with the same individual.

 Interviews in Iqaluit, Rankin Inlet, Cambridge Bay, Yellowknife, and Ottawa were typically conducted in person. Interviews outside these communities were typically conducted by phone.

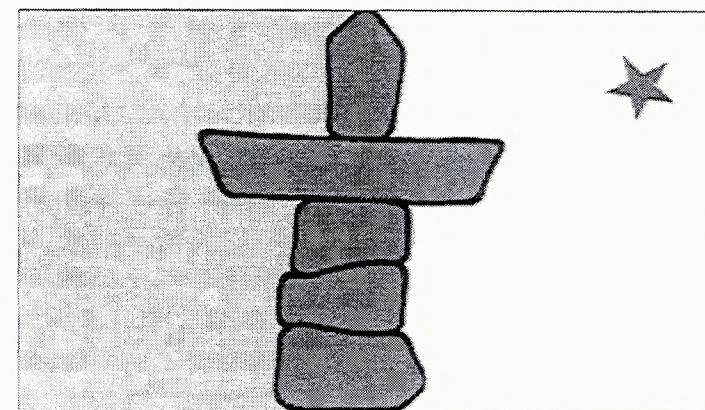
Annex D
Statistical Summary
Nunavut Module - 1999 Labour Force Survey

The Nunavut Bureau of Statistics has provided a stand-alone summary of the Nunavut Module from the recently completed 1999 Labour Force Survey. Their assistance in providing this material is gratefully acknowledged.

The Nunavut Module inquires on several areas not strictly related to labour force matters. One question is directly related to the effectiveness of the NLCA. Other questions provide useful insights into a variety of economic and social issues in Nunavut.

The Nunavut Module also represents an example of the type of information channels that are available for gathering information on economic and social conditions in Nunavut.

Future surveys, such as the Nunavut Module, can be designed to acquire information that is suitable for both general purposes and the impact assessment and accountability needs of the NLCA.



‘Nunavut Add-On’ to the 1999 Labour Force Survey

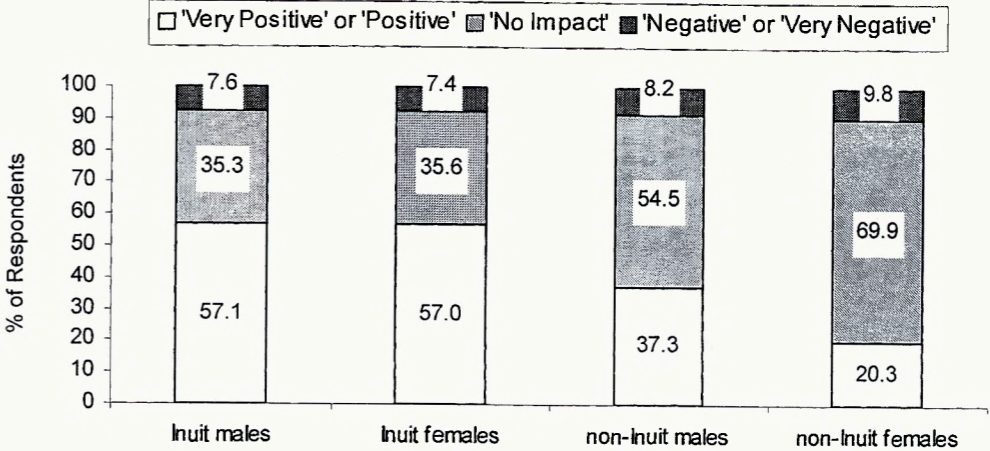
Preliminary results prepared for inclusion in the document
Implementation of the Nunavut Land Claim Agreement:
5-Year Review.

September 1999

For a description of this survey, and for a comprehensive review of the data, please consult the document Nunavut Add-On to the 1999 Labour Force Survey (forthcoming from the Nunavut Bureau of Statistics).

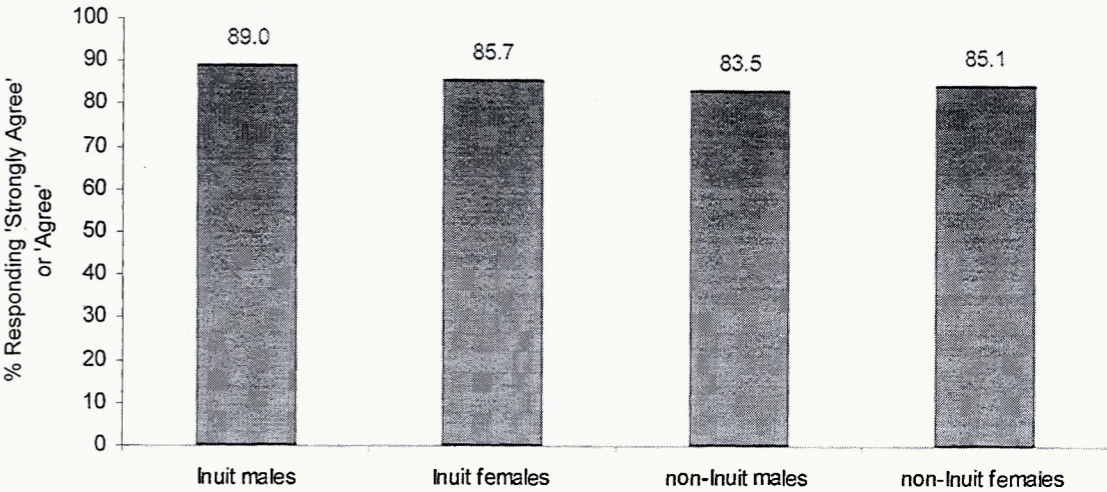
Nunavut Bureau of Statistics
Bag 800
Iqaluit, Nunavut X0A 0H0
phone (867) 979-2156
fax (867) 979-3311
website www.stats.gov.nu.ca

Nunavut: "Would you say that the implementation of the Nunavut Land Claim has had a ... impact on your life"



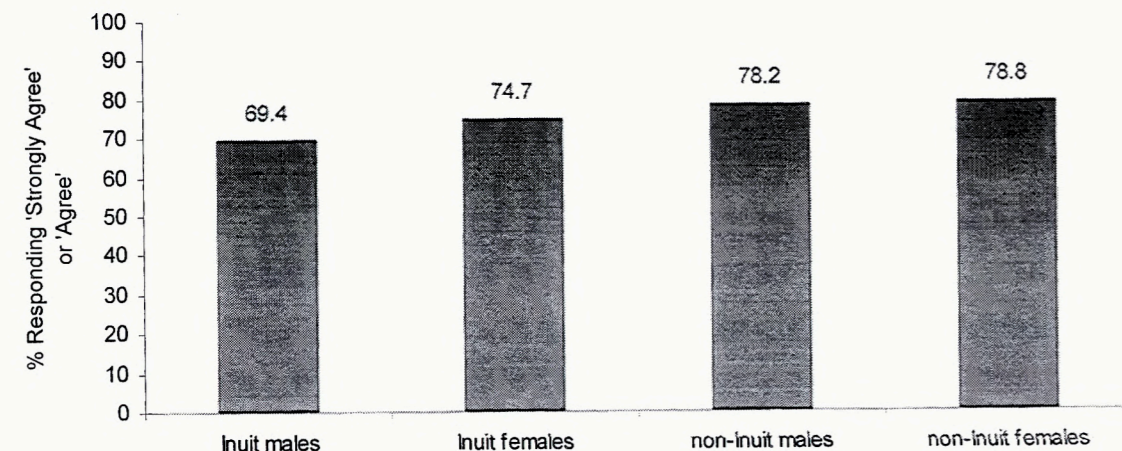
source: Nunavut Bureau of Statistics, 'Nunavut Add-On' to the 1999 Labour Force Survey

Nunavut: "The creation of Nunavut will give the people of Nunavut a real opportunity to govern our lives better"



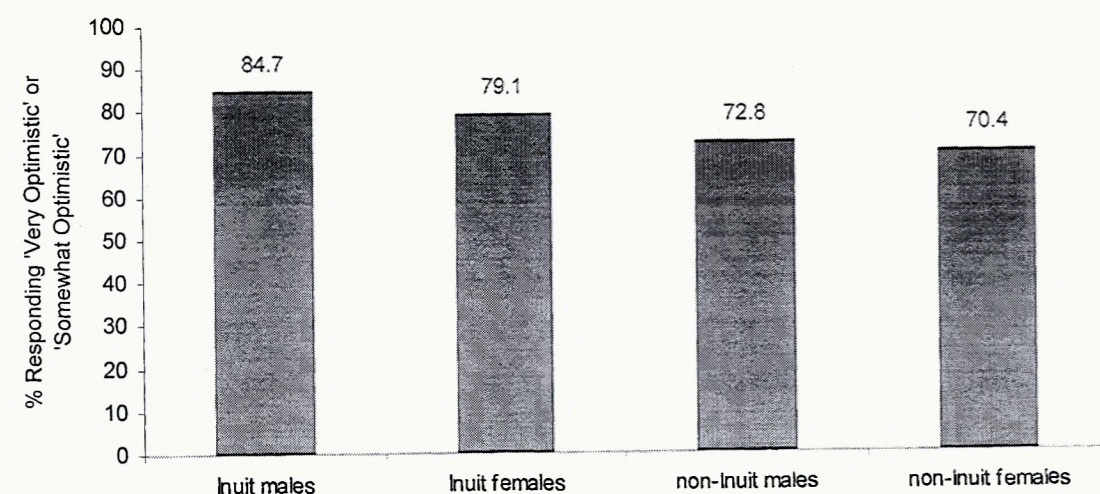
source: Nunavut Bureau of Statistics, 'Nunavut Add-On' to the 1999 Labour Force Survey

Nunavut: "For financial reasons, the Nunavut Government will have a difficult time maintaining existing programs and services"



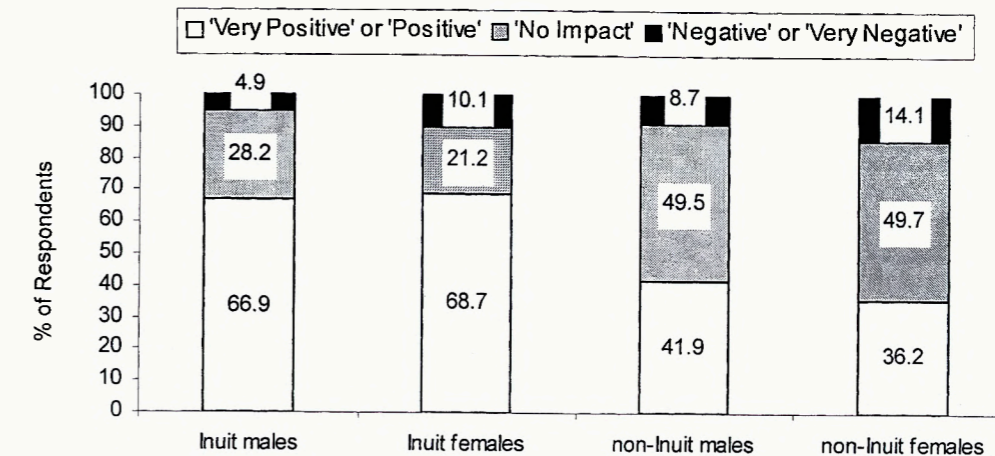
source: Nunavut Bureau of Statistics, 'Nunavut Add-On' to the 1999 Labour Force Survey

Nunavut: "Generally speaking, thinking about the future of Nunavut are you ..."



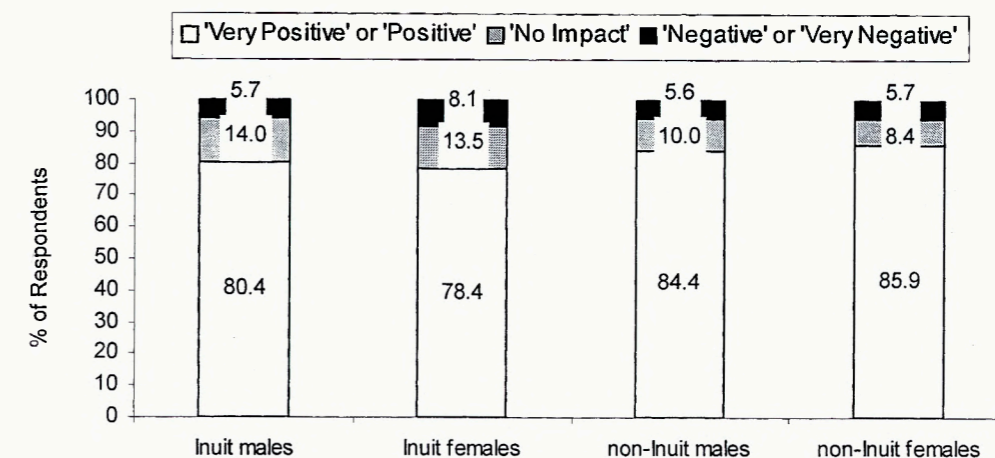
source: Nunavut Bureau of Statistics, 'Nunavut Add-On' to the 1999 Labour Force Survey

Nunavut: "For you personally, do you feel that the creation of Nunavut will have a ... impact on your life"



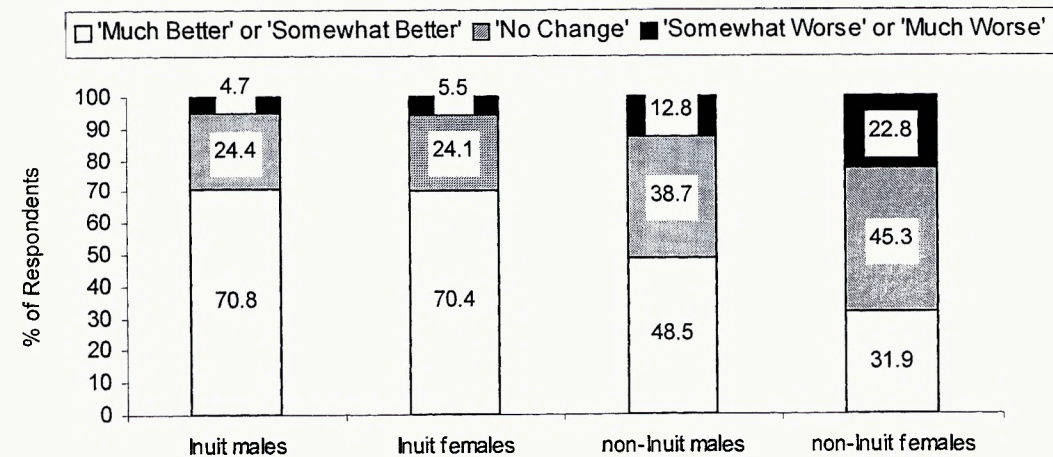
source: Nunavut Bureau of Statistics, 'Nunavut Add-On' to the 1999 Labour Force Survey

Nunavut: "Overall, do you feel that the creation of Nunavut will have a ... impact on your community"



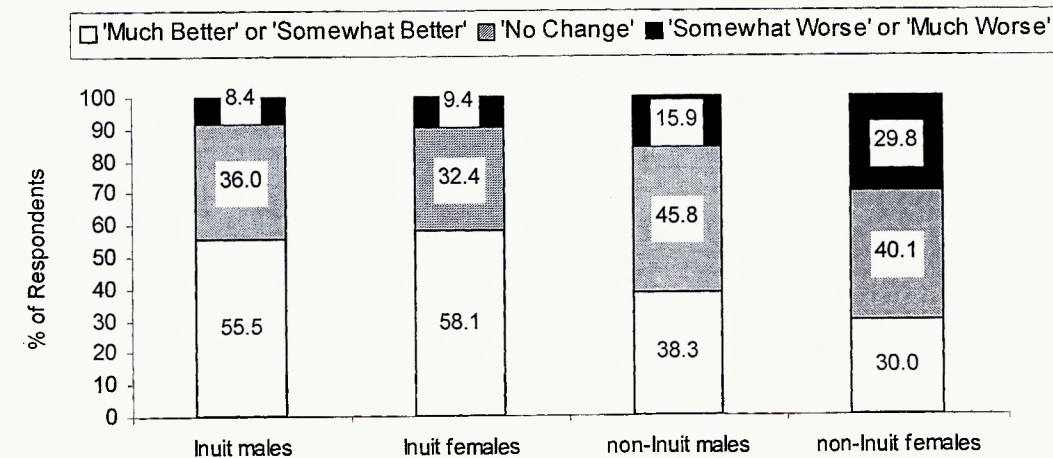
source: Nunavut Bureau of Statistics, 'Nunavut Add-On' to the 1999 Labour Force Survey

Nunavut: "Education Programs: What impact do you think the Nunavut Government will have in your community?"



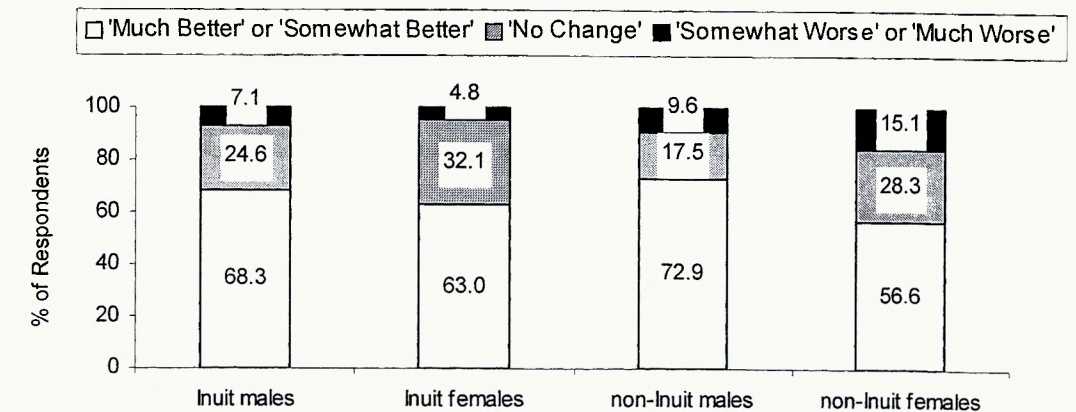
source: Nunavut Bureau of Statistics, 'Nunavut Add-On' to the 1999 Labour Force Survey

Nunavut: "Health Services: What impact do you think the Nunavut Government will have in your community?"



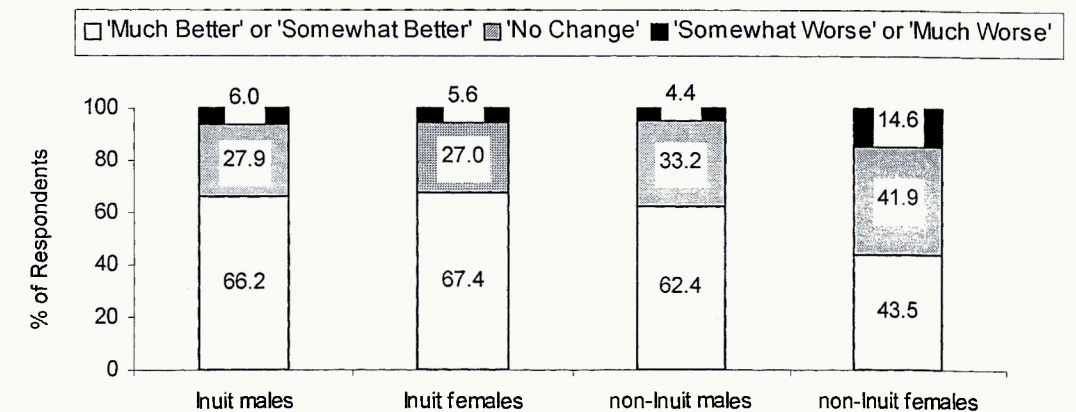
source: Nunavut Bureau of Statistics, 'Nunavut Add-On' to the 1999 Labour Force Survey

Nunavut: "Economic Development: What impact do you think the Nunavut Government will have in your community?"



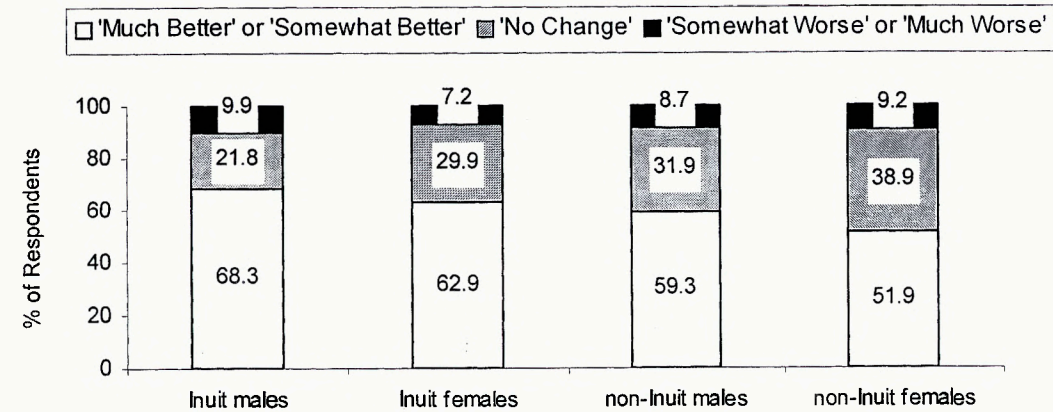
source: Nunavut Bureau of Statistics, 'Nunavut Add-On' to the 1999 Labour Force Survey

Nunavut: "Protecting the Environment: What impact do you think the Nunavut Government will have in your community?"



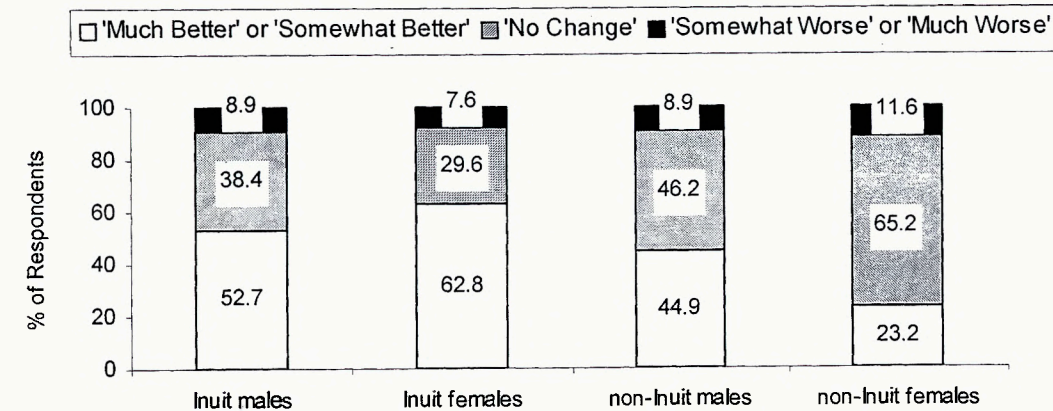
source: Nunavut Bureau of Statistics, 'Nunavut Add-On' to the 1999 Labour Force Survey

Nunavut: "Community Government: What impact do you think the Nunavut Government will have in your community?"



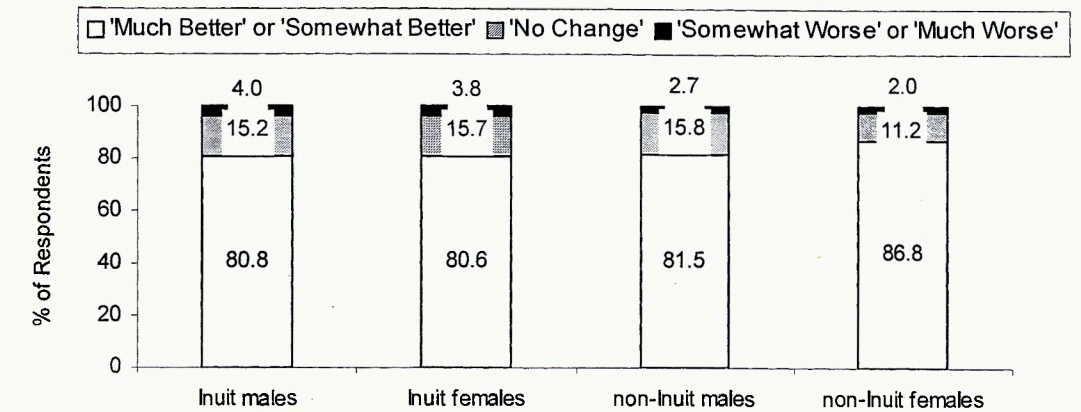
source: Nunavut Bureau of Statistics, 'Nunavut Add-On' to the 1999 Labour Force Survey

Nunavut: "Overall Community Health: What impact do you think the Nunavut Government will have in your community?"



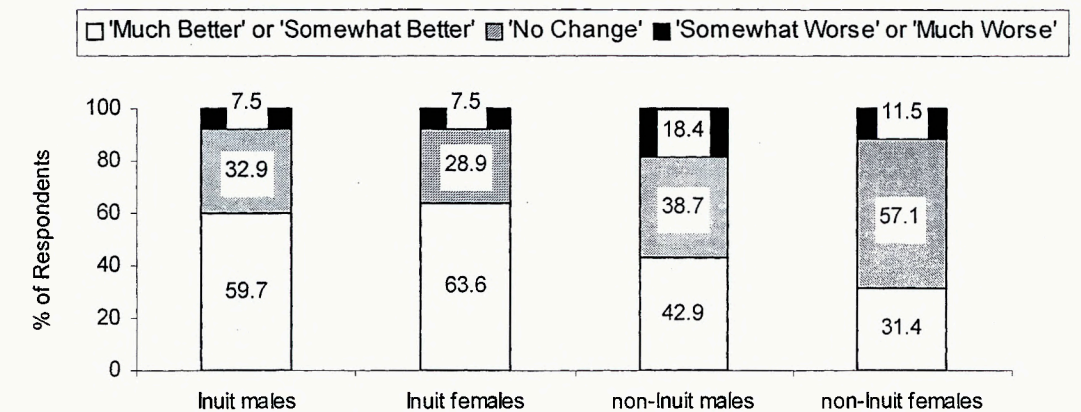
source: Nunavut Bureau of Statistics, 'Nunavut Add-On' to the 1999 Labour Force Survey

Nunavut: "Respect for Inuit Values: What impact do you think the Nunavut Government will have in your community?"



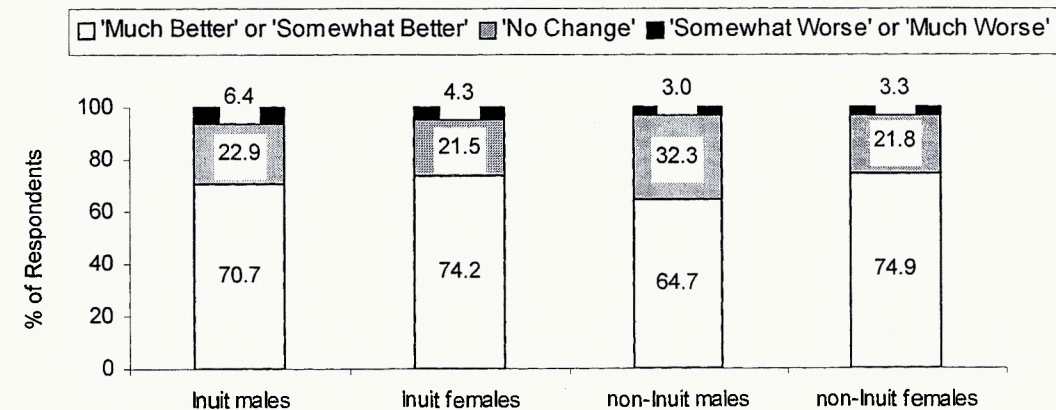
source: Nunavut Bureau of Statistics, 'Nunavut Add-On' to the 1999 Labour Force Survey

Nunavut: "Operating the Justice System: What impact do you think the Nunavut Government will have in your community?"



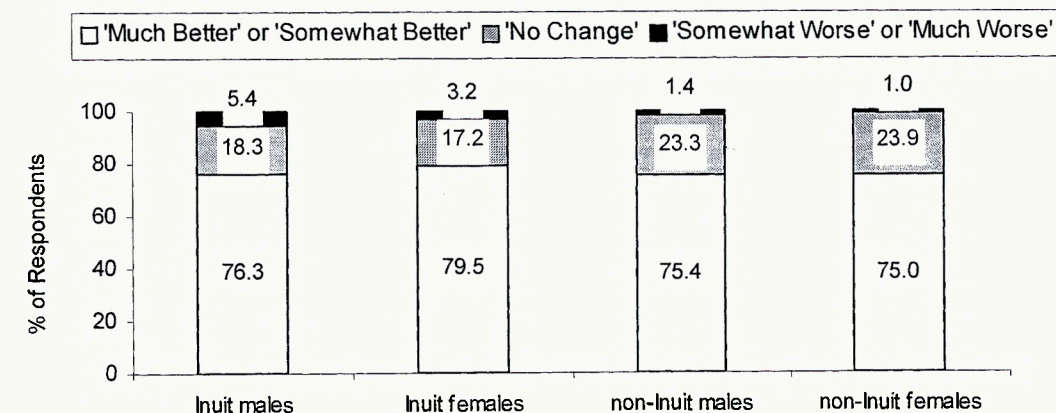
source: Nunavut Bureau of Statistics, 'Nunavut Add-On' to the 1999 Labour Force Survey

Nunavut: "Use of Inuktitut / Inuinnaqtun: What impact do you think the Nunavut Government will have in your community?"



source: Nunavut Bureau of Statistics, 'Nunavut Add-On' to the 1999 Labour Force Survey

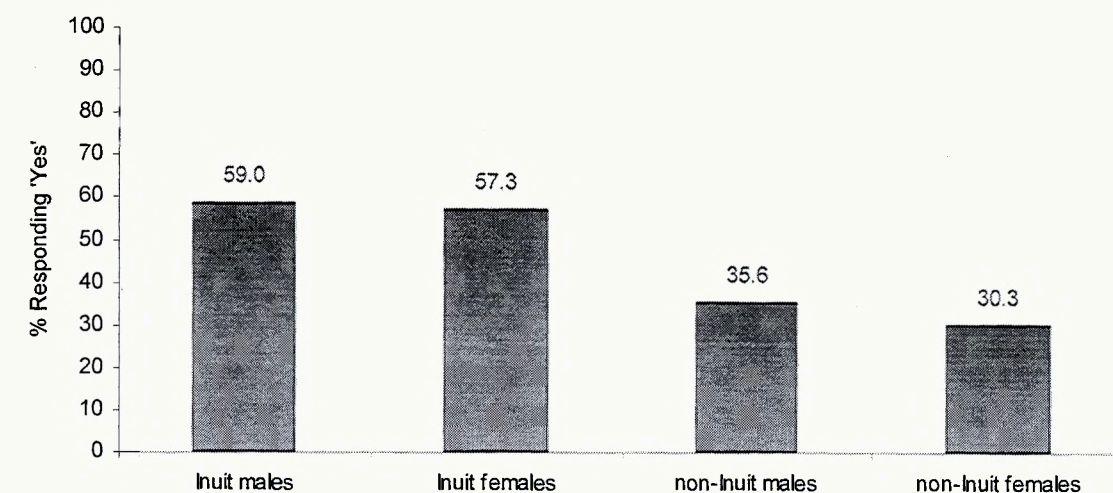
Nunavut: "Teaching of Inuktitut / Inuinnaqtun in School: What impact do you think the Nunavut Government will have in your community?"



source: Nunavut Bureau of Statistics, 'Nunavut Add-On' to the 1999 Labour Force Survey

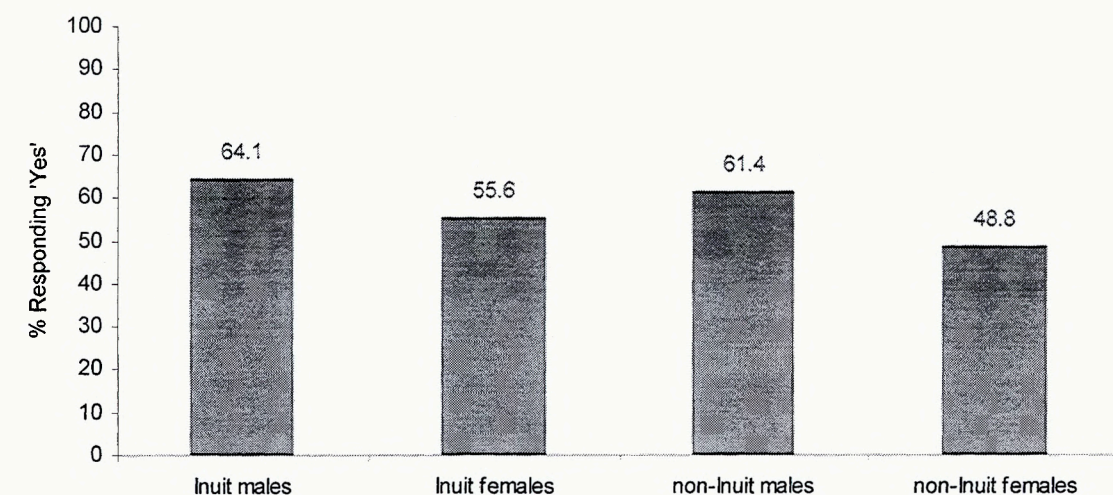
The majority of respondents felt that the Nunavut Government will have no impact on the teaching of English and French in school.

Nunavut: Willingness to Move for Education or Training Opportunity, 1999



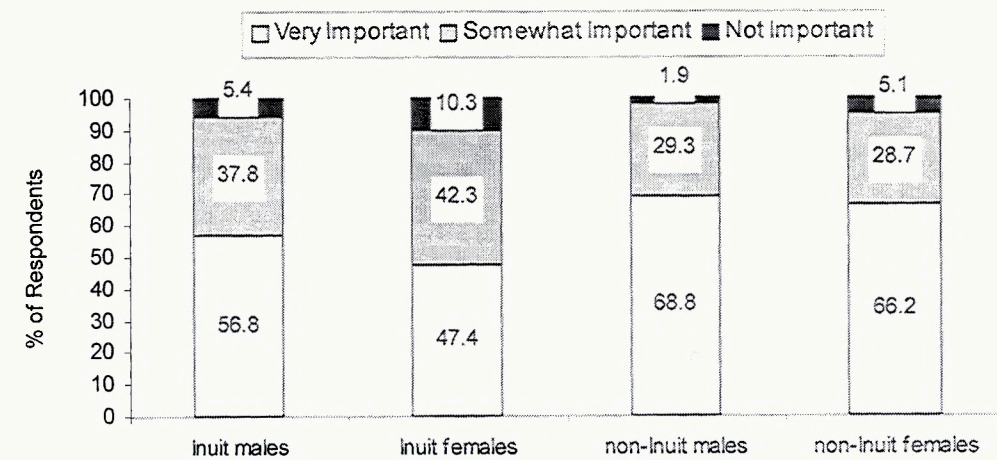
source: Nunavut Bureau of Statistics, 'Nunavut Add-On' to the 1999 Labour Force Survey

Nunavut: Willingness to Move for a Job (or a Better Job), 1999



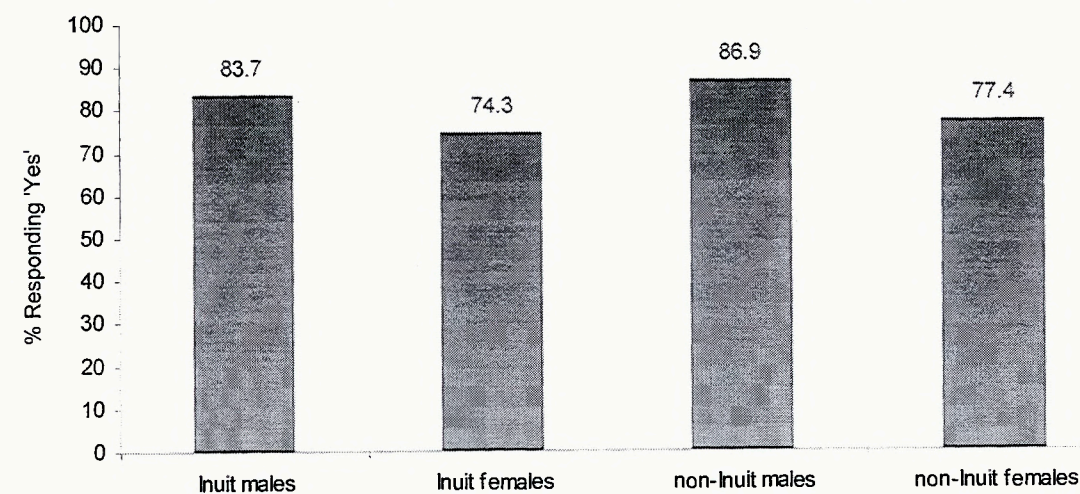
source: Nunavut Bureau of Statistics, 'Nunavut Add-On' to the 1999 Labour Force Survey

Nunavut: "Do you think the mining industry will be ... in the future of Nunavut?"



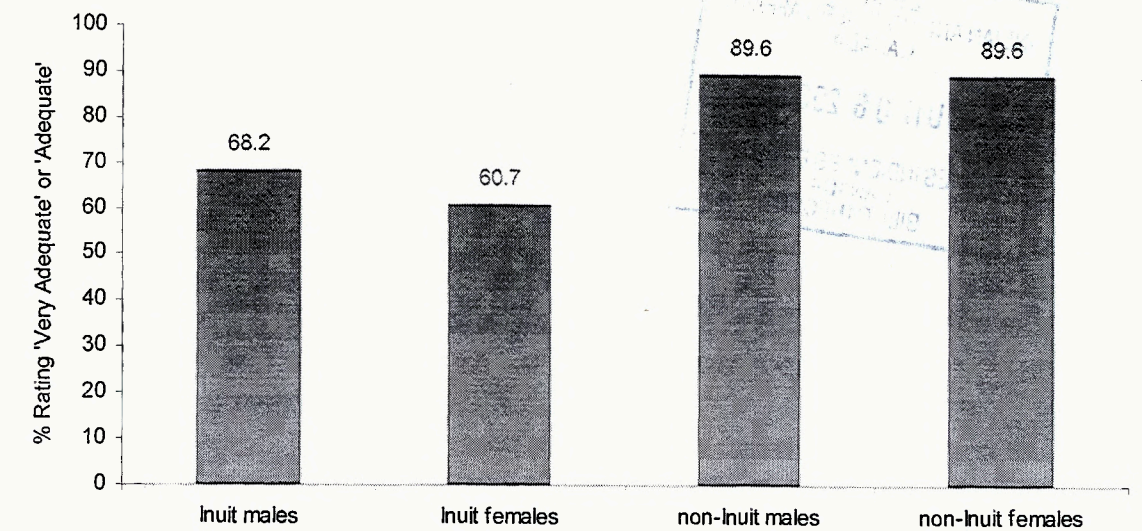
source: Nunavut Bureau of Statistics, 'Nunavut Add-On' to the 1999 Labour Force Survey

Nunavut: "Do you think that mining can take place in Nunavut in an environmentally responsible way?"



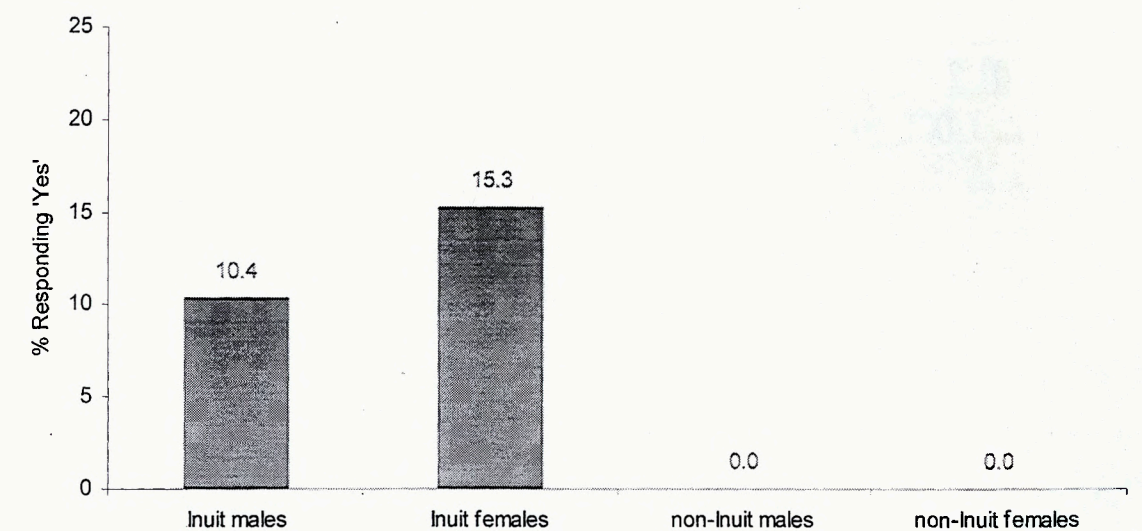
source: Nunavut Bureau of Statistics, 'Nunavut Add-On' to the 1999 Labour Force Survey

Nunavut: Perceived Adequacy of Housing, 1999



source: Nunavut Bureau of Statistics, 'Nunavut Add-On' to the 1999 Labour Force Survey

Nunavut: On Waiting List for Social Housing, 1999



source: Nunavut Bureau of Statistics, 'Nunavut Add-On' to the 1999 Labour Force Survey