

Inuvialuit Final Agreement
Environment and Wildlife Provisions

June 10, 1993

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About the Illustrations

The Westcoasters

(Bottom)

The Indians who now live along the west coast of Canada are direct descendants of skillful mariners who navigated the open ocean of the North Pacific in hand-hewn cedar canoes long before the arrival of the European. To attain their livelihood these people daily braved the perils of an area frequently referred to as the "Graveyard of the Pacific." The "Westcoasters" is a graphic visual tribute to the courageous and indomitable spirit of the west coast people.

Creation

(Middle)

To use the artist's words "... meaningful traditions are governed by the works of the Creator, and are believed to be sacred. It is from nature that the Native peoples adopt symbolism." Thus the "Creation" became the first of his Iroquois paintings. It is a work that portrays in physical symbols a vision of ancient Iroquoian spiritual concepts: the Turtle Island — the Earth, the Great Tree of Peace — Brotherhood and Unity, the Guardian Eagle — the Creator's watch-care, and the Sun — our Elder Brother.

The Goose and the Mink

(Top right)

The Northern Goose and Mink serve as a vivid portrayal symbolizing the unending and universal struggle between good and evil, the forces of life and death. In both the animate and the inanimate creation — in the prey and in its predator and in the variations between the lightened and the darkened suns — we see an emphasis on the continuing conflict between these forces and the pathway of division between them.

and the Artists ...

Roy Henry Vickers

Roy Vickers is a Coast Tsimshian who spent his early youth at Kitkatla, an ancient Indian village on an Island at the mouth of the Skeena River, British Columbia. Later his family settled in the Victoria area. While there, in art classes at school he was unable to relate to the European painters and the "great masters" and turned instead to the art of his Tsimshian heritage; it was here that he found himself.

It wasn't long before his artwork showed considerable promise and he was admitted to the Gitanmax School of Northwest Coast Indian Art at Ksan in Hazelton, B.C. In two years of intense study at Gitanmax, Roy matured into a highly skilled artist with a marked ability to sensitively blend traditionalist and contemporary forms. (Roy's other talents include University lecturing and television acting.) His carvings and paintings may be found in major public and private collections in Canada, the United States and Japan.

Arnold Jacobs

Arnold Jacobs is a Six Nations' Iroquois artist who is emerging as a visual interpreter and historian of the rich culture of his people. After studying in the Special Arts Program at Toronto's Central Technical School, Arnold went on to develop his distinctive techniques through thirteen years of experience in the commercial arts field. His works have brought him international recognition.

Central to Arnold's creative expression are symbols of the earth and sky — such as the waters, the four winds, thunder and the sun. For him these supporters of life are also spiritual forces that should inspire within us true thankfulness to the Creator.

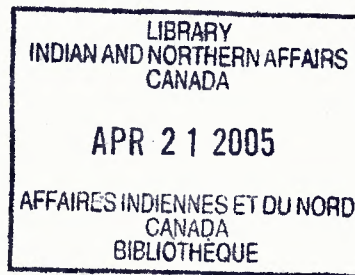
Jackson Beardy

Jackson Beardy was born as the fifth son of a family of 13 in the isolated Indian community of Island Lake, about 600 kilometres north of Winnipeg, Manitoba. Deprived of his home and language at the age of 7, he spent 12 disorienting and traumatic years in residential school life. Thus Jackson's early manhood found him in the struggle to reconcile the two worlds of white and Indian society. It was at this time that he returned north in a quest to again learn the ways and teachings of his people.

Later, unrecognized and being unaware of any other Indian artists in Canada, he began to pioneer his own art form — one portraying traditional legends and nature in uniquely colourful, creative and symbolic images. In time his paintings have found their place in established collections throughout North America and Europe. His recent death in December of 1984 was lamented as a great loss to Canada.



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An Implementation Evaluation
prepared for
The Joint IFA Evaluation Advisory Committee
under the auspices of
Indian and Northern Affairs Canada
Ottawa

Resource Futures International (RFI)
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Ottawa, Ontario
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C. Structures

1. Environmental Management Regime

Issue: Is the environmental management regime (environmental screening and review) still appropriately structured?

Finding: Perhaps. While interviewees have no strong feelings on this issue, it should be considered that no public reviews may be held for a long time, and that the current arrangements are probably more costly than they need to be.

Recommendations: The responsibilities of the EIRB and EISC could be combined through cross-appointment of members.

Implications:

- would imply no changes to the IFA.
- leaves open possibility of formal merger through further IFA amendment
- should expose EIRB to routine operational issues
- other?

2. Wildlife Management Regime

Issue: Is the wildlife management regime (FJMC, WMAC NS and WMAC NWT) still structured appropriately?

Finding: While there is general satisfaction with the current situation, the WMAC NS will soon have discharged its main obligations. The current structure is more costly than a single agency, and makes it more difficult to apply the ecosystem approach to environmental management.

Recommendation: The operations of the WMAC's should be brought closer together in the short term through cross-appointment of members. The opportunity to consolidate the three bodies formally should be reviewed over the long term.

Implications:

- would require amendment of the IFA over the long term
- implies increased work load for the remaining chairs
- possible budgetary savings
- other?

The mandates of the Joint Bodies should be assessed in terms of the needs for environmental management.

Implications:

- possible duplication with existing territorial and federal processes

-possible increased uncertainty for industry

- *other?*

- b) Introduce greater predictability in the manner of making, and nature of, screening decisions.
- c) Reduce duplication with government processes.

Implications: - need to negotiate equivalency agreements
 - other?

4. Review Process

Issue: Is the review process operating properly?

Finding: Yes. But it has also created significant uncertainty in the eyes of industry and some federal officials.

- Recommendations:
- a) Develop a more detailed *roadmap* of the review process and requirements for applicants.
 - b) Resolve overlap issues with other regulatory processes. (equivalency, joint hearings)
 - c) Make presentations to industry on the process.
 - d) Develop and maintain the technical capacity of the Board.
 - e) Appoint members to longer terms.
 - f) Resolve mandate over offshore. jurisdiction

5. Evolution of Mandates

Issue: Should the mandates of the Joint Bodies be allowed to evolve?

Findings: The mandates of the Joint Bodies have evolved since they were set up:

- FJMC is involved in fish habitat issues.
- EIRB is taking an expansive view of its mandate offshore.
- WMAC NS is applying a comprehensive and broad scope to its conservation plan.

Options: The mandates of the Joint Bodies can be assessed in terms of the *letter of the IFA* or in terms of *environmental management needs*.

Recommendation:

B. Mandates

1. Inuvialuit Game Council

Issue: Does the IGC have sufficient resources to discharge its mandate?

Finding: No. It has no staff of its own and must rely on the Joint Secretariat. The lack of symmetry with the IRC makes it more difficult for the IGC to negotiate environment/development tradeoffs.

Recommendation: A small full-time staff should be established for the IGC (for example: an Executive Director and Resource Person).

Implications:

- what resources would the IGC need?
- who should fund it?
- other?

2. Joint Secretariat

Issue: Is the mandate of the Joint Secretariat properly defined?

Finding: The present dual role of serving the IGC and the Joint Bodies creates an apprehension of bias.

Recommendations:

- a) The role of the Joint Secretariat should be made more service-oriented, with policy functions being moved to the IGC.
- b) The Board of the Joint Secretariat should be re-vamped.
- c) The office procedures of the Joint Secretariat should be updated.

Implications:

- budgetary savings
- other?

3. Screening Process

Issue: Is the screening process operating properly?

Finding: Yes, but the process remains cumbersome in the eyes of industry.

Recommendations:

- a) Develop an *exclusion list* for routine activities.

- what are the implications for programming control?
- would the Joint Bodies have to "sign off" on any claims to future funding?

- other?

3. Public Reviews

Issue: How should funding for public reviews be provided?

Finding: Different provisions must be made for large non-recurring expenditures.

Recommendation: Establish a revolving fund with a pre-set limit to be replenished through banking of lapsed funds or as otherwise required.

Implications: - Who would administer the fund?

- What should be the limit?

- other?

A. Funding

1. Funding Levels and Principles

Issue: Are funding levels appropriate relative to obligations and requirements under the IFA?

Finding: Yes, overall, although the transfer and distribution of funds have been problematic.

Recommendation: Funding arrangements should be guided by a set of principles which could include:

- priorities for spending and spending decisions should be established by the Joint Bodies within overall limits established by the federal government

- the Joint Bodies are accountable to both parties for achieving results and for financial probity

- unused funds can be banked from year to year

- the Joint Bodies should be free to purchase the expertise they choose

- *other?*

2. Funding Arrangements (except for Public Reviews)

Issue: Are the existing funding arrangements appropriate?

Finding: No. The current funding arrangements are not as efficient and effective as they could be.

Options: 1 Harmonize terms and conditions, reporting requirements and schedules of government agencies.

2 Furnish funding in "grant" form instead of as "contributions".

3 Transfer funds directly to the Joint Secretariat, which would administer these funds under the guidance of a re-vamped Joint Secretariat Board.

Implications: - what changes need to be made to the Joint Secretariat and its Board?

- will the IFA need to be amended?

- how would this affect the obligations of government agencies?

APPENDIX G – FOCUS GROUP SESSION MATERIALS

Key Issues for Discussion

A. Funding

1. **Funding Levels and Principles:** Are funding levels appropriate relative to obligations and requirements under the IFA?
 2. **Funding Arrangements:** Are the existing funding arrangements appropriate?
 3. **Public Reviews:** How should funding for public reviews be provided?
-

B. Mandates

1. **Inuvialuit Game Council:** Does the IGC have sufficient resources to discharge its mandate?
 2. **Joint Secretariat:** Is the mandate of the Joint Secretariat properly defined?
 3. **Screening Process:** Is the screening process operating properly?
 4. **Review Process:** Is the review process operating properly?
 5. **Evolution of mandates:** Should the mandates of the Joint Bodies be allowed to evolve?
-

C. Structures

1. **Environmental Management Regime:** Is the environmental management regime (environmental screening and review) still appropriately structured?
2. **Wildlife Management Regime:** Is the wildlife management regime (FJMC, WMAC NS and WMAC NWT) still appropriately structured?

- a) DIAND, WACIS; NAP; Other
 - b) DOE; CWS, Parks; Other
 - c) DFO
 - d) TB
 - e) GNWT
 - f) YTG
 - g) ICG
 - h) HTC's
 - i) Joint Sec.
 - j) Yukon Sec..
10. Does your group overlap with or duplicate the work of any other body, whether provided for in the IFA or not, and whether included in the list in Question 9 or not? If yes, please expand on how and why and the implications this has for implementation of the environmental and wildlife provisions of the IFA.

Your Group's Contribution to the Collective Mandate:

11. To what extent has the work of your group contributed to implementation of all the environmental and wildlife management provisions of the IFA?
12. To what extent, if any, has the work of your group prevented implementation of all or any of the environmental and wildlife management provisions of the IFA? Why has this occurred?
13. What are the strengths and weaknesses of your group?

B. IMPLEMENTATION OF THE COLLECTIVE MANDATE:

14. In your opinion, is the collective environmental and wildlife management mandate being met? If not, where are the deficiencies and why have they occurred?
15. In your opinion, are the environmental and wildlife management provisions of the IFA being implemented in such a way as to ensure that the principles underlying the Agreement are being observed?
16. In your opinion, are the expectations of the various participants to the Agreement, as they were articulated at the time of negotiation, being met? If not, where are the shortfalls, why have they occurred, and what impact have they had on implementation of the collective environmental and wildlife mandate?
17. In your opinion, are there any general factors that affect the performance of the joint bodies?

QUESTIONNAIRE

A. FOR YOUR GROUP:

Please give your opinion on the following questions that apply to the work of your group only. It is not necessary to repeat information already given in the Planning Report.

Role and Objectives:

1. What is the role of the group on which you are commenting?
2. What are the stated objectives for your group?
3. To what extent has your group achieved these objectives? For each objective successfully achieved, what conditions permitted or were conducive to successful achievement? For each objective not achieved, what conditions resulted in non-achievement?
4. How do your group's stated objectives related to the relevant environmental and wildlife provisions of the IFA.

Resources:

5. What financial and human resources have been made available to your group to meet its IFA-related objectives?
6. What outputs have been achieved within the level of allotted financial and human resources?

Impact and Effects:

7. What impact or effects has your group had on:
 - a) implementation of the environmental and wildlife management provisions of the IFA?
 - b) the principles stated in the IFA?
8. Has your group had any unintended impacts? For each unintended impact identified, please note:
 - what it was,
 - why it occurred,
 - whether it was beneficial or detrimental, and
 - if detrimental, what steps could be taken to prevent its reoccurrence.

Interrelationships:

9. How does your group interact with each of the following; what works well in these interactions and why; what does not work well, why, and what implications does that have for your group and/or implementation of the IFA?

APPENDIX F – WRITTEN QUESTIONNAIRE

Evaluation of the Implementation of the Environmental and Wildlife Management Provisions of the IFA

Please complete this page and attach it to your responses to the question.

Completed by: _____

Date: _____

Position: _____

Date of appointment
to position: _____

If in position less than 1 year, name a previous incumbent and length of his/her term:

To assist the contractor in analyzing responses, please:

- provide your answers to the following questions in the order in which they are given and give each answer the same number as the question;
- start your answers on a new page, where indicated; and
- write your name at the top of each page, so that responses can be identified after they are sorted by question category.

The question in Section A (questions 1-13) seek your views on the work of your group only. The questions in Section B (questions 14-19) take a broader look at the IFA.

5. Documents to be reviewed include:

- the Inuvialuit Final Agreement
- WACIS Annual Reviews
- relevant chapters of annual reports (1986, 1990) from the Auditor General
- Treasury Board submissions and decisions related to the IFA
- audited statements and annual reports of the joint management institutions created under the IFA
- contribution agreements and contracts between government agencies and joint management institutions under the IFA
- management plans such as the Inuvialuit Renewable Resources Conservation and Management Plan, the WMAC(NS) Wildlife Conservation and Management Plan (Summer '92), Community Conservation Plans (where they exist), species management plans and the Beaufort-Delta Region Land Use Plan
- the proceedings of the three North Slope Conferences

6. We will signal gaps in information, if any, to the EAC Chair. If the focus group meeting is postponed to early November, that is after the bulk of the file review has been completed, it will be possible to discuss what to do about any information gaps directly with EAC members. In the alternative, it may be possible to address this matter by conference call.

APPENDIX E - FILE REVIEW GUIDE

Since the IFA was ratified, a substantial body of files has accumulated on the various institutions, management processes and funding mechanisms involved in the implementation of the environmental and wildlife management provisions. We are conscious that we run the risk of becoming swamped by the documentation that has been generated over the years. We shall therefore review the IFA files on the basis of the strategy outlined below.

1. We shall first verify with Richard Berg and Norm Snow (and some EAC members as necessary) the location and general contents of the main IFA files. We shall be particularly interested in determining the extent to which files in Ottawa duplicate those available elsewhere and whether some information is available in one location only. This will allow us to prepare a first inventory of sources of written information by location and content. On this basis, we will be able to better schedule the various file reviews we need to do and link them to the interviews.

2. The issues identified in the evaluation report and the mini-evaluations provide a framework to discipline and guide our research. This focus will help us to discriminate among the documents we review. We will use the file review to:

- prepare for interviews;
- provide historical context;
- validate the information gathered during interviews;
- obtain supporting documentary evidence;
- develop recommendations.

3. The file review and the interviews are closely interrelated in that they share the common objective of gathering the information necessary to make recommendations on management and institutional changes to the environmental and wildlife management provisions of the IFA. They differ in one important respect in that the file review is likely to be more important in generating information related to fiscal arrangements, funding mechanisms, allocation of funds against objectives and financial matters in general. We shall therefore pay particular attention to these issues in the file review. It is important to underline, however, that the purpose of the file review is not to conduct an audit but rather to identify opportunities for economies and analyse the financial implications of various policy options.

4. The file review will be undertaken as an iterative process in the following order:

- annual and other reports of IFA bodies will be read first. These are the public documents which provide the essential information on the basis of which more detailed file reviews will be undertaken. We have most of these reports in hand already;
- relevant material in Ottawa files will be reviewed;
- several interviews in the Ottawa/Hull area will be conducted;
- the work done in Ottawa will provide "leads" to seek specific information in both interviews and file reviews in Yellowknife, Inuvik and Whitehorse;
- files in Ottawa/Hull will be searched again, if necessary, (i) to verify information (interviews and file reviews) gathered in the Territories and (ii) to assist in the formulation of the financial aspects of our recommendations.

- f) Have the environment and wildlife management provisions been effective in maintaining the quality of the environment and conserving wildlife? In other words, is the environment, and are the wildlife, "better off" than they otherwise might have been?
- g) If you were in my position, what kinds of recommendations and advice would you like to pass on to the Evaluation Advisory Committee?

- b) Do you have any comments to make on any of these issues? Which ones? *[Identify]*
- probes: why an issue
 contributing factors
 shared opinion
 solutions/improvements
 implications
- c) Are there any other issues which we have not talked about, and which you would like to comment upon?
-

Section 8. For those who completed written questionnaire: otherwise, go to Section 8.

- a) You completed a "written questionnaire". We would like you to help us confirm that it is complete, and to clarify and expand upon a few items:

Add probes based on point form extraction from each person's written questionnaire.

Is there anything you wish to add to the written questionnaire that you did not include, either for reasons of confidentiality or because you did not think of it at the time?

I wonder if you could explain a few items:

- b) We would like to follow up on some points you raised. In your written questionnaire, you commented that ...; could you please explain/expand ...

Extract issues raised in interviewee's written questionnaire and follow up (especially if other respondents addressed same or similar issue - explore, compare, etc.)

- c) Specific issues raised in others' written questionnaires, but not in yours, are:

What is your opinion on these issues?

Section 9. Other comments:

- a) Is there anything else relevant to implementation of the IFA which we have not discussed?

The following questions, and others which may arise, are to be asked of interviewees, as appropriate (depending on knowledge, background, interest, etc.)

- b) Has the way in which I have asked these questions limited you in any way?
c) Do you think this kind of review will lead to improvements?
d) In your opinion, is the IFA's collective environmental and wildlife management mandate being met? If not, where are the deficiencies and why have they occurred? [from written questionnaires]
e) Are the environmental and wildlife management provisions of the IFA being implemented in such a way as to ensure that the principles underlying the agreement are being observed? [from written questionnaires]

- c) What would you suggest is the best way make long-term improvements and to solve these problems? [make clear that opinion only is being sought; no answers/commitments can be given]

probes: internal to the IFA and the functioning of its bodies;
changes to the IFA itself;
external to the IFA;
other.

- d) What would be the implications of implementing such improvements/solutions?

probes: increased cost;
increased workload;
shifting of responsibilities;
possibility of achieving agreement on the proposed improvement;
need to revise IFA;
time required to make improvements.

Section 7. Interviewee's opinion on other issues raised to date:

To be used as a checklist to deal with any major issues not identified previously by the interviewee, and for which he/she might have some interest. Select from list as appropriate for each interviewee. Otherwise, go to Section 8.

- a) During our preliminary research, other issues have been raised. These include:
- i/ need guidelines defining "acceptable commercial harvesting"
 - ii/ perception that INAC procedures for controlling funding actually hinders implementation
 - iii/ inadequate resources for some bodies/agencies and uncertainty about future funding
 - iv/ (expressed) historically poor communications and relations between certain participants: e.g., WACIS/TB/YTG, and the IGC
 - v/ small pool of expertise/Inuvialuit from which joint bodies may draw
 - vi/ some bodies' inability to deal with large amounts of technical information
 - vii/ uncertainty of funding for future wildlife studies
 - viii/ differing interpretations of certain provisions of the IFA (nb., Section 13) on the part of government and the Inuvialuit
 - ix/ INAC not devoting adequate attention (time, levels of staff, etc.) to its responsibilities for claim implementation
 - x/ overlap between IFA and federal environmental impact assessment processes
 - xi/ relationship between the EIRB and the EISC
 - xii/ training needs
 - xiii/ responsibility and mechanisms for implementing recommendations of Joint Bodies (WMAC, for example) is unclear
 - xiv/ absence of an overall implementation plan
 - xv/ joint bodies' roles are greater than anticipated
 - xvi/ joint bodies not always representing government and Inuvialuit interests evenly
 - xvii/ division/definition of roles and responsibilities in all bodies/structures; e.g., roles of chairpersons and Inuvialuit, division of wildlife and fisheries management, etc.

Of these, [insert appropriate issue(s)], appear to relate to your work/interests. Do you agree?

funding;
research;
expertise;
coordination;
other.

- b) Looking back, which of these expectations have or have not been met? To what degree? What have the consequences of this been?
- c) What factors do you think contributed to your expectations being met, or prevented them from being met?

probes (internal and external factors):

resources (\$, skills, time);
roles of "participants";
people involved;
communication among "participants";
structural reasons;
mandates;
differences/similarities in approach/views, etc.;
other.

- d) Do other people share your views ((b) and (c))? [Note: meant to ask if your views commonly held, and to ascertain by whom]

probe: in your own group?;
outside your group?

- e) Are there other [contrary/different] opinions on this? What are they? Held by whom? [Note: meant to help identify where differences are, and where they are acknowledged]

- f) Are your expectations of the IFA now different from your original expectations?

Probes: how have they changed?;
why have they changed?;
do your current expectations/change in expectations correspond with the views of others?

Section 6. Measures to improve implementation of the environmental and wildlife management provisions:

- a) In your view, what aspects of the IFA (environmental and wildlife management provisions) are working well?
- b) On the other hand, what areas need to be improved, and what problems need to be solved? *If none, go to Section 7.*

probe: refer back to points and issues identified in interview to this point

probes: what was it about?;
 what was its nature?: financial, procedural;
 wildlife or environment related?;
 when did it occur?;
 has it been resolved?;
 how was it resolved?

If not resolved: Why is it still outstanding? What is the problem?

b) Were you satisfied with the outcome? If yes, why? If not, why not?

probes:(for positive or negative response):

 how long did dispute take to resolve?;
 was the process easy, appropriate or
 unnecessarily complicated?;
 what did it cost?;
 other.

probe: look for and examine differences between
 different situations, if appropriate

c) Are disputes becoming easier or more difficult to resolve? Why?

probes: are the factors involved inherent to the IFA? (*see probes used above; e.g.,
 structures, mandates, funding, etc.*)
 are they external to the IFA (*e.g., personality related, communication, values,
 etc.*)

d) Are there any ways in which disputes could be handled better (the dispute resolution
 mechanism could be improved)?

Section 5. Interviewee's opinion, if any, on expectations/historical aspect:

this section for people involved in IFA pre-1986; if not, go to Section 6. Refer to cover page for information on respondent's previous involvement with IFA. Elaborate as necessary: were they doing similar work to today? were they working for the same or another organization? etc.

a) Can you describe what you or your organization/group originally expected (when the IFA was being negotiated in 1983-84) would happen as a result of the IFA [environmental and wildlife management provisions] being implemented?

leave question open, though probes could be useful:

 subject matters to be addressed;
 moving government closer to people;
 accountability;
 sharing of responsibility;
 information sharing;
 decision-making;
 control/authority;

For each body with which you are connected/interact, I would like to ask you a few questions.
For [name]:

- a) Please elaborate on the nature of the information/service/etc. you are concerned with and/or use from [name]:

probes: what kind of information/service?;
what purpose does it serve?;
how important is it to you?;
frequency of use;
other.

- b) How useful is the information/material/service generated/performed by the [name]?

probes: what about - quality;
timeliness;
format;
amount;
other.

- b) How complete is the information/material generated by the [name]?

probes: extent of coverage

[If not complete] what is not covered/shortfalls

impact of any shortfalls identified: on interviewee's work, on effectiveness of the IFA

- c) Do you have any alternative sources or means of obtaining the same or similar information/service? (*i.e., duplication*)

- d) *If yes:* What are they? do you use them? how does the information/material provided by [name - IFA] compare with that provided by [name - other]?

probes: quality;
timeliness;
reliability/accuracy;
presentation;
other.

Section 4. Dispute resolution:

- a) Have you or your organization/group been involved in any dispute regarding the IFA?
(*If no, go to Section 5.*)

d) (*If not doing what it is supposed to be doing*)

Why is it not doing its job and what can be done to improve this situation?

probes: *as for (c) above*

- are there things it was supposed to do and it is not?
- is it doing things it was not supposed to do?

e) Are there any other functions related to the environmental or wildlife management provisions in the IFA that [name] should be doing/dealing with and is not? *If yes:* Please elaborate:

f) To summarize, what would you say are the [name]'s main strengths?

g) What are its main weaknesses?

h) In general, do you think that the bodies [names] we have talked about and other "participants" in the IFA (that is, government agencies, Inuvialuit, joint bodies, etc.) interact and work effectively and efficiently together?

Please elaborate on your answer/opinion.

probes (contributing factors):

mandates;
structures;
lines of responsibility: overlapping, contradictory;
resources (\$, skills, time);
degree of cooperation;
differences/similarities in approach/views, etc.;
people;
communication;
funding;
location/distance;
other.

i) *If overlap identified in (h):* Do you see this overlap as necessarily being bad? If so, what can be done about it?

Section 3. Interviewee's opinion on information/material/etc. he/she receives related to the IFA:

This section is for users of information and services, as identified in 1(a). If not a "user", go to Section 4:

You said [refer to response from 1(a)].

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APPENDICES

- A** Evaluation Terms of Reference
- B** Evaluation Advisory Committee and RFI Evaluation Team
- C** Interviewees
- D** Interview Guide
- E** File Review Guide
- F** Mini-Evaluation Questionnaire
- G** Focus Group Session Materials

APPENDIX A – EVALUATION TERMS OF REFERENCE

STATEMENT OF WORK

Evaluation of the Implementation of the Environmental and Wildlife Management Provisions of the Inuvialuit Final Agreement

S.W.1 BACKGROUND

The Inuvialuit Final Agreement (IFA) came into effect July 25, 1984. The current implementation regime is in place for a ten-year period, which expires March 31, 1994. Although no implementation plan was devised, the IFA includes several references regarding implementation of its environmental and wildlife management provisions. It also established a number of joint government/Inuvialuit advisory bodies to ensure the effective integration of the Inuvialuit into the management of wildlife and land in the Inuvialuit Settlement Region.

These bodies include the Environmental Impact Screening Committee, the Environmental Impact Review Board, the Fisheries Joint Management Committee, the Wildlife Management Advisory Council (North Slope). To provide secretariat support to these bodies, DIAND, the GNWT and the Inuvialuit subsequently created a Joint Secretariat. Funding of these bodies is provided by various federal (DOE, DFO, DIAND) and territorial departments through contribution agreements with the Joint Secretariat.

S.W.2 OBJECTIVES OF THE STUDY

The objectives of this evaluation are:

- to measure the effectiveness of the parties in fulfilling their environmental and wildlife management implementation responsibilities as established by the IFA, and to make suggestions regarding possible improvements within the current regime;
- to provide all parties to the agreement with the information they need to discuss implementation of the IFA after the present regime expires; and
- to provide government with "lessons learned" from implementing the environmental and wildlife management provisions of this agreement.

S.W.3

ISSUES AND QUESTIONS

The evaluation will address the following issues using questions and methodologies stated in the planning report:

- the extent to which, and the ways in which, expectations of the various parties regarding implementation of the environmental and wildlife management provisions of the IFA have evolved from 1984 to the present, and an analysis of the congruence or divergence between these expectations;
- the impact of these expectations on implementation;
- the effectiveness of the structures, mechanisms and processes put in place to implement these provisions and to reconcile related disputes;
- an analysis of the conditions that resulted in successful or unsuccessful implementation of these provisions and resolution of disputes; and
- the identification of measures to improve implementation of these provisions of the IFA.

APPENDIX B – EVALUATION ADVISORY COMMITTEE AND RFI EVALUATION TEAM

Evaluation Advisory Committee

The Evaluation Advisory Committee (EAC) consisted of 12 people representing the federal government and the Inuvialuit. The members were:

Chair- Rosemary Wallbank

Representing Government

Mark Warren, Government of the Northwest Territories
Skeeter Verlaine-Wright, Yukon Government
Fred McFarland, Indian and Northern Affairs
Trevor Swerdfager, Environment Canada
Gerald Yaremchuk, Fisheries and Oceans
Marielle Godbout, Treasury Board

Representing Inuvialuit

Larry Carpenter
Lindsay Staples
John Bailey
Bob Bell
Charles Haogak (replaced
Nelson Green)

Resource Futures International (RFI) Evaluation Team

The RFI Evaluation Team which undertook the evaluation and prepared this report was composed of:

François Bregha
Donald Gamble
Douglas Wright

APPENDIX C – INTERVIEWEES

Eighty people were interviewed during the evaluation. The interviewees represented the following organizations and groups.

Under Inuvialuit Final Agreement:

- Environmental Impact Review Board
- Environmental Impact Screening Committee
- Fisheries Joint Management Committee
- Inuvialuit Game Council
- Inuvialuit Regional Corporation
- Inuvialuit Land Administration
- Joint Secretariat
- Wildlife Management Advisory Council (North Slope)
- Wildlife Management Advisory Council (NWT)

Inuvialuit Game Council
Hunters and Trappers Committees

Canada:

- Department of Communications
 - Broadcasting Policy Branch
- Environment Canada
 - Canadian Parks Service
 - Canadian Wildlife Service
 - Corporate Policy Group
- Fisheries and Oceans
 - Arctic Fisheries
 - District Office
- Indian and Northern Affairs
 - Natural Resources and Economic Development Branch
 - Northern Oil and Gas Directorate
 - Western Arctic Claim Secretariat
- National Energy Board
 - Environmental Directorate
- Treasury Board
 - Social Programs Division, Program Branch

Government of the Northwest Territories:

- Commission for Constitutional Development
- Economic Development and Tourism
- Executive Branch, Intergovernmental and Aboriginal Affairs
- Government Leader
- Justice
- Legislative Assembly
- Renewable Resources

Yukon Territorial Government:

Economic Development and Tourism
Executive Council
Justice
Renewable Resources

Industry:

AMOCO Canada
Canadian Marine Drilling Limited
Canadian Petroleum Association
Umayot Corporation

Academia:

The Arctic Institute of North America

Inuvik Chamber of Commerce

Tungavik Federation of Nunavut

APPENDIX D - INTERVIEW GUIDE

Location:
Date:

Name:
Affiliation:

Position:

Special Cases

Some interviewees should be considered as "special cases" and treated accordingly. To a great extent, this is left to the discretion of the interviewer. Examples of such cases are:

- i) some interviewees did a written questionnaire; see attached list. Interviewer will have thoroughly read written questionnaire beforehand. Phrase introductory remarks, questions and probes accordingly. Specific additional questions for these people are contained in Section 9.
- ii) Some questions pertain to one or only some groups, or should be worded slightly differently for certain groups to make them more relevant and/or appropriate.
- iii) If a question is not appropriate for, or does not apply to a given interviewee, this will be indicated by recording "N/A" against that question.

Introduction

We are evaluating the environmental and wildlife management provisions of the Inuvialuit Final Agreement on behalf of the Inuvialuit people and the federal government. The purpose of this evaluation is to determine how well these provisions have been implemented to date. Also, the information obtained from the study will help us recommend improvements for implementing the IFA when the present funding arrangements are renewed in 1994. We are seeking views and opinions from many people. Once we have completed our interviews, we will be making a report to the *Evaluation Advisory Committee* for their consideration.

Your responses to our questions will remain confidential. While we may quote some of the answers we receive, respondents will not be identified by name. Questions are divided into several categories in which we ask you to:

- describe your involvement with the IFA;
- give your opinion on the IFA body/ies with which you are involved or come into contact;
- give your opinion on information, advice, services, etc., which you receive related to the IFA;
- describe any experiences you may have had related to IFA disputes;
- comment, if appropriate/as appropriate, on your expectations of the IFA when it was being negotiated and first came into being;
- suggest any improvements for implementing the IFA's environmental and wildlife management provisions of the IFA;
- offer your opinion on certain issues raised by others;
- *[for those who completed written questionnaire]* expand upon comments made in your written questionnaire;
- talk about any other issues or thoughts you may wish to discuss.

Section 1. Interviewee's involvement with the IFA:

- a) What is your involvement with/what part do you or your organization play in implementing the IFA?

probes: a user of information/services
a provider of information/services
a recipient or administrator of funding
other (*specify*)

- b) Tie answer back to the specific IFA body/bodies that generate(s) with which the interviewee or his/her group is most involved. That means you are most involved with [names]. Correct?

(specify names)

Joint Bodies,
Secretariats,
Inuvialuit (IGC's and HTC's),
Government: Federal, YTG, GNWT,
Industry,
other.

Section 2. Interviewee's opinion on body/ies with which he/she deals:

For each body with which the interviewee is connected/interacts:

- a) Are you familiar with the [name]'s mandate/role in relation to the IFA?

If not well informed, go to Section 3.

If well informed: (for each body, questions b to h)

- b) Do you think the [name] is doing what it was set up to do?

yes (go to c)
no (go to d)

- c) *If yes:* Why do you think this is?

probes: clarity of IFA, definition of roles, etc.;
political support;
resources (\$, skills, time);
adequacy of support: e.g. secretarial, admin.,
training and development;
structural reasons;
people involved;
location;
communication;
other.

22. *in the course of developing the recommended five year program plan, the Board of the Joint Secretariat review the current operation of the Harvest Study in detail, and come to agreement on how the study is to operate and be funded over the long term.*
23. *The Inuvialuit and the governments involved reach an understanding concerning the appropriate level of government activity in wildlife studies.*
24. *the Board of the Joint Secretariat develop a code of ethics to guide the activities of its members.*
25. *the following principles related to funding be adopted by all participants:*
 - *spending priorities and decisions should be made by the Board of the Joint Secretariat within overall limits negotiated with the federal government*
 - *the Board of the Joint Secretariat be accountable to both parties to the agreement for achieving results and for financial probity*
 - *unused funds be "banked" from year to year*
 - *the joint bodies be free to purchase the expertise they choose*
26. *the federal government and the Inuvialuit amend the IFA to recognise the existence of the Joint Secretariat and define its responsibilities. Such an amendment would give the Board of the Joint Secretariat the status it needs to administer implementation funding.*
27. *the responsibilities of the Board for allocating funds among the joint bodies and the means of maintaining financial accountability be addressed as a priority.*
28. *to be held accountable for its spending decisions, the Board of the Joint Secretariat establish , and report back to the federal government and the Game Council on, specific program objectives covering an agreed planning period, say five years. Within this program, the Board would be free to transfer funds from task to task or bank money from year to year .*
29. *implementation monies (excluding the operational requirements of government agencies) flow directly from Treasury Board through DIAND to the Joint Secretariat Board, bypassing the GNWT and the federal departments. Such block funding would provide the Joint Secretariat Board with the flexibility needed to set its own priorities. In exchange, the Inuvialuit Game Council should release the government from further financial obligations related to IFA implementation for an agreed period.²³*
30. *funding for the operational requirements of federal departments should be secured in their A-Base budgets. Funding for the operational requirements of the territorial governments should be included in their formula financing agreements.*
31. *the government apply an inflation rate to the transferred funds which better reflects conditions in the north.*
32. *the Inuvialuit and the federal government negotiate separate funding arrangements for the conduct of public reviews. These negotiations should address: (i) the limit of the fund to be established; (ii) the source of the funding; and (iii) its administration (e.g., accrual and disposition of interest; modalities of access; responsibility for the fund; replenishment).*

²³ This will require an amendment to the IFA to remove reference to the financial obligations of certain government agencies and make these corporate responsibilities of the government.

9. *the Joint Secretariat's by-laws be revised to reflect its primary purpose as a service organisation to the Joint Bodies.*
10. *The by-laws of the Joint Secretariat be revised to clarify and strengthen the structure and function of the Board of Directors to increase its accountability.*
11. *the role and duties of the Joint Secretariat's Executive Director be defined more clearly and to correspond with the redefined mandate of the Joint Secretariat.*
12. *the Secretariat's staff job descriptions be revised to reflect more accurately the emerging nature of the responsibilities of both the professional and support staff. Of particular importance is the definition of the responsibilities of the Executive Director and the individual responsible for financial management (now the Office Manager).*
13. *a concise guide on office procedures setting out the responsibilities and accountability of staff be developed immediately and be submitted to the Joint Secretariat Board for formal approval. The guide should be appropriate for a small, results-oriented staff working in a collegial setting. The policies and procedures should permit considerable flexibility in day-to-day operations but the parameters and accountability system must be clearly defined.*
14. *the Joint Secretariat enhance programs for upgrading and expanding the skills of Joint Secretariat staff in all areas ranging from front office management, to the operation of the geographic information system (GIS), and enhance information transfer and training programs in the ISR communities to enable the Inuvialuit to participate more fully in IFA implementation. These efforts should be carried out with and through the activities of the joint bodies whenever and wherever appropriate.*
15. *the IGC be supported by its own small technical and administrative staff.*
16. *greater support be given to the members of the IGC. This could be arranged as part of the redefinition of its staff support services. Other matters that need to be addressed include: the redefinition of part-time obligations and technical and administrative support in the members' home communities.*
17. *the current part-time positions in the HTC's be increased to full-time positions so that there is a fully staffed office in each community.*
18. *over the long term, consideration should be given to the IGC setting its own rates for honoraria and paying for them from its own budget.*
19. *training be increased immediately on basic operational matters such as bookkeeping, development of office skills (particularly in computers and electronic communication) and office management. Other training needs more directly related to wildlife surveys etc. should be featured in the design and implementation of all programs as they are developed.*
20. *Governments take the necessary steps to ensure that public servants whose responsibilities include environmental and wildlife management matters in the Inuvialuit Settlement Region are fully cognizant of the IFA's provisions.*
21. *The territorial governments introduce legislation amending their respective Wildlife Acts to reflect the provisions of the IFA as soon as possible.*

surprisingly, senior Inuvialuit have been far more heavily engaged in IFA implementation than senior government officials. The federal government should consider whether the greater attention of its senior managers to the IFA would improve implementation of the Agreements.

9. *Both partners need to be patient. Many partnerships founder when their parties lose patience. They often tend to value the achievement of short-term performance over the slower work of consultation and collaboration. A balance needs to be continuously struck between these two objectives. Building the capacity of a partnership in the organizational, technical and behavioural sense can be a slow and painful struggle that rewards those who have the patience to carry on and the faith that it remains a more effective approach over the long term. Although the Inuvialuit have shown understandable frustration at the complexities of government decision-making, much of this frustration has been associated to non-recurring events. Both parties may need to remind themselves occasionally that the IFA's environmental and wildlife management provisions are working well, notwithstanding the problems that they have experienced from time to time.*

5.2 Recommendations

Our recommendations appear throughout the text. For ease of reference, they are listed together below in the order in which they are made.

We recommend that:

1. *the parties periodically review the mandates of the joint bodies in terms of the needs for environmental management, within the spirit of the IFA.*
2. *the parties take steps to reach agreement on the EIRB's offshore jurisdiction.*
3. *negotiations should begin in the near future to develop mechanisms for ensuring there is no duplication of environmental screening and review processes with forthcoming federal legislation, territorial requirements, and processes operating in adjacent land claim areas.*
4. *communication on the IFA screening and review process be enhanced between the EISC and developers through periodic workshops, and distribution of detailed process guidelines [detailed road map] and other information materials.*
5. *until such time as development increases dramatically in the ISR, the operations of the EISC and the EIRB be brought closer together through cross-appointment of members as provided for in the IFA. During this period, the experience of other processes should be monitored and the implications of formal consolidation examined.*
6. *consideration be given to bringing the operations of the Wildlife Management Advisory Councils and the Fisheries Joint Management Committee closer together in the short-term through cross-appointment of members. The opportunity to consolidate these bodies formally through amendment of the IFA should be examined over the longer term.*
7. *the letters appointing government officials to serve on the Joint Bodies and the operating procedures of these bodies spell out clearly the conditions of members' service.*
8. *the Board of the Joint Secretariat require each joint body to prepare an annual plan of work and that at the end of each year, the Inuvialuit Game Council and the Government of Canada, with the participation of both territorial governments conduct a review of each bodies' performance against its plan. This review should be accompanied by a performance appraisal of each member of the joint bodies.*

management of the partnership. The Inuvialuit and the government have made their partnership explicit in the IFA and have spelled out the overarching principles (section 1 of the IFA) which govern their relationship.

2. The relationship must be based on trust. Given the consensual nature of partnership agreements, the quality of trust – how to earn it, how to foster it, how to preserve it, how to offer it – becomes a crucial intangible asset. Trust, along with agreed rules to share power and accountability, characterises the shift from government control to co-management; it cannot be assumed and must be continuously reinforced. It must not be sacrificed in order to meet short term objectives. As the numerous comments made during the interviews demonstrate, the IFA partners still do not trust each other fully even eight and a half years after they signed the Agreement. If their partnership is to become more effective, they must take steps to increase their mutual respect.

3. The partners must recognise that they have both common and divergent interests. Partnerships endure to the extent that they serve the real interests of the partners. Both sides have objectives and aspirations that they wish to pursue in the context of this partnership. These need to be explicitly stated, discussed and recognised. Each partner bears some responsibility for ensuring that the other achieves its objectives. An imbalance in perceived benefits will strain the partnership and lead to declining levels of commitment. The IFA partners have not made sufficient efforts to recognise each other's legitimate interests.

4. The partners must acknowledge they depend on each other and share risk. Partnerships are frequently strengthened by the realisation that the partners are interdependent, that they cannot meet the objectives of their partnership alone and that they must support each other to lower the risk for both. Not all Inuvialuit or government officials engaged in wildlife and environmental management fully appreciate their mutual dependence and the opportunities for synergy which the IFA regime offers.

5. The partners should take advantage of their comparative advantage. This implies that both partners must realise that they each bring to the relationship a knowledge and capacity that are unique and essential to the IFA's implementation. By and large, the IFA partners recognise this comparative advantage.

6. The partners must balance consensus and autonomy. Although both partners have strived to operate on the basis of consensus decision-making in the operations of the five joint bodies, they remain separate entities with differing mandates and interests. The design of the partnership must leave space for each of them to keep a certain freedom of action and autonomy in key areas. This is clearly not a problem for the government participants in the IFA but it is for the Inuvialuit to the extent that the Inuvialuit Game Council is so dependent on the intellectual resources of the Joint Secretariat and the joint bodies that its ability to formulate policy independently is seriously restricted. For the reasons we have stated earlier in the text (see section 3.4.2), we believe that the IFA would function more effectively in the long term if the IGC were strengthened.

7. The partners should recognise the need for flexibility in their arrangements. Partnerships evolve as a result of experience gained and changes in circumstances. In the case of the IFA, greater flexibility is required in financial arrangements and in the interpretation of the mandates of the joint bodies. In both cases, we have made recommendations designed to introduce greater flexibility to the IFA while recognising the limits established by the federal cabinet over the years.

8. The partners should involve their senior management. Institutional relationships need the support and periodic attention of the senior managers of both parties. Such involvement symbolises the corporate commitment to the joint endeavour and provides a lattice-work of individual relationships within the partnership which can be helpful in solving problems, mediating differences, etc. Not

frustrations over funding arrangements and other problems identified. Lack of an implementation plan has led to an *ad hoc* approach causing funding delays, inaccurate funding estimates and other problems.

Other factors include the differing perspectives of the Inuvialuit and the governments on the principles underlying the agreement and the consequent roles and responsibilities of both groups; and the fact that the concerns of the Inuvialuit and of governments are often not internally homogeneous.

The changing context within which the IFA operates has played and will continue to play a significant part in the efficiency and effectiveness of implementation. These changes include the raising of the profile of aboriginal issues in constitutional talks; the expanding scope for land claims negotiations to address issues of self-government more directly; and the dramatic fall-off in oil and gas activity in the Western Arctic. Wildlife and environmental concerns in the ISR are changing as well to encompass, for example, emerging problems posed by the long-range transport of air pollutants, including toxic substances, as a major concern for many northern communities. Institutionally, the management provisions contained in the agreements negotiated with the Inuit of the central and eastern Arctic, the Yukon Indians and the Gwich'in pose new management challenges because of jurisdictional overlap and the sharing of many migratory species.

5) *the identification of measures to improve implementation of these provisions of the IFA.*

To address the problems and concerns which have been raised simply on an individual basis would in all likelihood prove to be ineffective. Some problems are past and no longer germane. Others, such as differences in perspective will continue to persist for the foreseeable future. And while the experience of the past can inform the future, there will always be new issues arising and new approaches will be required. The crucial task is to make changes that not only address problems which exist now, but which will equip those involved with the structures, resources and flexibility required to resolve future problems successfully.

In section 5.2, we list together the recommendations that are presented throughout the text.. The recommendations address the basic nature of changes which should be made, but do not prescribe in detail how these changes should be brought about. We believe that such decisions are more appropriately left to those responsible for implementing the relevant aspects of the Agreement. It should be noted that these recommendations are linked closely to one another; in many cases, implementing one recommendation hinges upon other recommendations being effected.

5.1.3 The IFA as a Partnership

Reduced to its bare bones, the IFA represents a partnership between the Inuvialuit and the federal government. To be successful over the long term, partnerships must exhibit patience, hard work, resources, openness, perseverance and mutual respect. The essential principles of a successful partnership²², many of which are applicable to the IFA and which can serve other land claims, are presented below:

1. *A partnership must be based on an explicit decision to collaborate on a given set of issues. It implies the acceptance by both parties of a set of behavioural principles which can be used to guide the*

²² We are indebted to Peter Morgan, a management consultant, for proposing these principles in the context of a different consulting assignment.

2) *the impact of these expectations on implementation.*

Because expectations have largely been met, we believe that their impact directly on implementation to date is less significant than the fact that this general satisfaction should bode well for the future and provides the base of trust and goodwill prerequisite for continuing success.

However, differences in levels of concern between the Inuvialuit and Canada do persist and we conclude that these differences have contributed significantly to much of the friction that has been experienced to date. Recognizing these differences is itself important to removing irritants. The recommendations presented in section 5.2 speak to more specific changes which need to be made.

3) *the effectiveness of the structures, mechanisms and processes put in place to implement these provisions and to reconcile related disputes in accordance with the principles set out in section 1 of the Agreement.*

Satisfaction with the overall operation of the joint bodies is high. This is particularly true for people residing within or close to the ISR. The joint bodies are perceived to be doing their jobs well and to be coordinating their functions well. Criticisms are either very specific or pertain to conditions outside the control of the joint bodies, such as those related to funding and decision-making processes outside of the ISR.

Away from the ISR – that is, in Ottawa, and the south generally – criticism is more prevalent. The concerns and frustrations which have been encountered relate primarily to the perception that the mandates of the joint bodies are expanding, that their structures are overly complex and costly, and that some of the joint bodies are biased in favour of the Inuvialuit.

There have been no disputes which have had to be resolved through the formal arbitration process. This is seen by some as being unfortunate in that formal resolution may have clarified the issues surrounding certain disputes. For the most part, however, the sentiment is that it is preferable to resolve disputes outside of the formal process and the fact this has been the case is viewed as being a positive demonstration of the ability of the participants to work together within the co-management regime.

The only potential dispute (in this context) raised by the interviewees as being of significance concerned the recent harvest of a bowhead whale and the difficulties encountered in gaining a harvest license. The consensus was that this situation had been resolved to the satisfaction of all, that the government and the Inuvialuit have profited from the experience, and that similar situations will be easier to deal with in the future.

4) *an analysis of the conditions that resulted in successful or unsuccessful implementation of these provisions and resolution of disputes.*

The main reasons cited for the overall successful implementation of the wildlife and environmental management provisions of the IFA to date include the downturn in oil and gas development, the degree of cooperation and team-work exhibited among the joint bodies and their tendency to operate by consensus, the dedication of the people involved, and general satisfaction with the level of resources available.

Factors militating against smooth implementation include a cumbersome funding mechanism, poor communications among certain key individuals, the heavy burden placed on the HTCs and the IGC, and poor definition of the roles and responsibilities of government members appointed to the joint bodies. Personalities were cited by many people as being a factor central to creating

5 CONCLUSIONS AND RECOMMENDATIONS

5.1 Conclusions

What the Inuvialuit and Canada agreed to in 1984 was based on the trade-offs deemed to be possible under the then-existing land claim policy. Even with the experience in Alaska and Northern Quebec, the IFA has been a pioneering effort, especially with regards to its wildlife and environmental provisions. No one has suggested that it has been perfect, but we find that from a wildlife and environment perspective, it has been remarkably successful in meeting the overall goals of the IFA and expectations of the beneficiaries.

We elaborate below on this conclusion. We also describe what we consider to be the main lessons learned in applying the environmental and wildlife provisions of the IFA thus far, in the context of viewing the Agreement as a partnership between the Inuvialuit and the federal government.

5.1.1 Principles of the IFA

Some broad conclusions may be drawn about the success with which the three IFA principles (see section 1.4.1) are being realized. While this evaluation was not designed to address how well the first principle is being met through the implementation of the wildlife and environmental provisions of the IFA, to the extent that adherence to the second and third principles supports the first, there is every reason to be optimistic. With regard to the second principle, the consensus among the many people interviewed is that the Inuvialuit are more involved in the making of decisions pertaining to the management of the environment and wildlife in the settlement region than otherwise would have been the case had the Agreement not been in place. With regard to the third principle, it was also the consensus of the interviewees that the wildlife and environment are at least being managed better, better protected and better conserved, even if no hard data exist to support the conclusion that the environment and wildlife populations are in better condition than previously.

5.1.2 Key Issues of the Evaluation

Five issues were identified for the evaluation. These issues are addressed throughout the preceding sections of the report. The conclusions which may be drawn from the evaluation relative to each issue are summarized below:

- 1) *the extent to which, and the ways in which, expectations of the various participants regarding the implementation of the environmental and wildlife provisions of the IFA have evolved from 1984 to the present, and the congruence or divergence of these expectations.*

Few of the people interviewed indicated that they were involved with or had good knowledge of the IFA prior to 1986 when the Agreement came into being. However, most of those with a long association agreed that the expectations they held for the IFA's environmental and wildlife provisions have been or are being met for the most part, although, as described throughout this report, most of the people interviewed expressed concern about specific aspects of implementation.

28. *to be held accountable for its spending decisions, the Board of the Joint Secretariat establish , and report back to the federal government and the Game Council on, specific program objectives covering an agreed planning period, say five years. Within this program, the Board would be free to transfer funds from task to task or bank money from year to year .*
29. *implementation monies (excluding the operational requirements of government agencies) flow directly from Treasury Board through DIAND to the Joint Secretariat Board, bypassing the GNWT and the federal departments. Such block funding would provide the Joint Secretariat Board with the flexibility needed to set its own priorities. In exchange, the IGC should release the government from further financial obligations related to IFA implementation for an agreed period.²¹*
30. *funding for the operational requirements of federal departments should be secured in their A-Base budgets. Funding for the operational requirements of the territorial governments should be included in their formula financing agreements.*
31. *the government apply an inflation rate to the transferred funds which better reflects conditions in the north.*
32. *the Inuvialuit and the federal government negotiate separate funding arrangements for the conduct of public reviews. These negotiations should address: (i) the limit of the fund to be established; (ii) the source of the funding; and (iii) its administration (e.g., accrual and disposition of interest; modalities of access; responsibility for the fund; replenishment).*

²¹ This will require an amendment to the IFA to remove reference to the financial obligations of certain government agencies and make these corporate responsibilities of the government.

the average annual inflation rate in Inuvik between 1986-87 and 1990-91 was 11%, almost triple the indexing factor used by Treasury Board²⁰, the real resources available to implement the IFA have declined notwithstanding their indexation.

The operations of the Joint Bodies and the Joint Secretariat should not be penalized because they happen to take place in a region of the country whose inflation is higher than the national average. It should be pointed out, however, that few if any government programmes have been fully adjusted for inflation in recent years.

(b) Public Reviews

The extraordinary needs of public hearings, including those of the Environmental Impact Review Board, cannot be accommodated easily under any of the options above. Options to address the unpredictability of spending related to public hearings include:

- the creation of a common fund for all similar institutions in claim agreements from which specific boards would draw as required. A common fund could potentially be kept smaller than the sum of several separate funds. Such pooling of costs, however, would be of limited value for large linear developments (e.g., pipeline construction in the Mackenzie Valley) where several aboriginal organizations would be simultaneously claiming from the same limited resources.
- the banking of annual financial allocations up to a pre-determined limit in a revolving fund. The Environmental Impact Review Board would draw against this reserve which would be replenished as required.
- a formula similar to an insurance policy, under which Treasury Board would cover expenditures over a deductible threshold which DIAND would absorb. A variant would have DIAND pay an annual premium for such insurance.
- the current approach, under which annual requirements are estimated and lapse if they are not used. The government would have to commit itself to make additional funds available (through a Treasury Board submission) were these to be needed.

We recommend that:

25. *the following principles related to funding be adopted by all participants:*

- *spending priorities and decisions should be made by the Board of the Joint Secretariat within overall limits negotiated with the federal government*
- *the Board of the Joint Secretariat be accountable to both parties to the agreement for achieving results and for financial probity*
- *unused funds be "banked" from year to year*
- *the joint bodies be free to purchase the expertise they choose*

26. *the federal government and the Inuvialuit amend the IFA to recognise the existence of the Joint Secretariat and define its responsibilities. Such an amendment would give the Board of the Joint Secretariat the status it needs to administer implementation funding.*

27. *the responsibilities of the Board for allocating funds among the joint bodies and the means of maintaining financial accountability be addressed as a priority.*

²⁰ Government of the Northwest Territories, Submission to Treasury Board, October 1, 1990, p10.

The Board of the Joint Secretariat should therefore be made responsible for the funds in categories (ii) and (iii) above. Such a transfer of responsibility would have several implications:

- structure of the board. The current Joint Secretariat Board now comprises the chairmen of each of the joint bodies. In return for delegating greater spending responsibility to the board, it may be appropriate for the federal government to nominate one additional member to the board to protect its financial and management interests.
- planning. In order to be held accountable for its spending decisions, the Joint Secretariat Board would have to agree to establish specific program objectives covering an agreed planning period, say five years. Within this program, the Board would be free to transfer funds from task to task or bank money from year to year.
- release of further government obligations. The government cannot reasonably give up its control over most of implementation spending and, at the same time, remain liable to further requests for spending. For their part, the joint bodies will invite government questioning of their spending decisions if they complain about funding levels. A *quid pro quo* is therefore implicit in this recommendation, under which the Inuvialuit Game Council would release the government of further financial obligations related to the implementation of the IFA's environmental and wildlife management provisions for an agreed period in return for gaining greater responsibility for implementation funding through an expanded Joint Secretariat Board.

The criteria of simplicity and responsibility argue in favour of Option 4 above. The clarification of issues related to responsibility and accountability would go a long way towards resolving the problems that have arisen in the implementation of the wildlife and environmental management provisions of the IFA. If this option is selected, the government and the IGC should hold the joint bodies accountable for achieving results and financial probity. They should not second-guess operational decisions. For their part, the joint bodies would have a greater incentive to increase efficiency, knowing that any gains achieved would be retained for further program work.

Option 4 does not limit the legal authority of territorial and federal ministers. They would remain ultimately accountable for environmental and wildlife management decisions in the Settlement Region and would continue to exercise their regulatory authority.

Because the IFA makes specific departments responsible for funding the joint bodies, Option 4 would require amending the Agreement. At that time, consideration should be given as to whether the Joint Secretariat should be formally identified in the IFA since its responsibilities would be considerably enhanced¹⁹.

4.4.3 Additional Considerations

Two additional considerations need to be taken into account in developing future funding options.

(a) Inflation

None of the funding options addresses the fact that inflation in Inuvik has recently been higher than in Canada as a whole. As the Government of the Northwest Territories has calculated that

¹⁹ The need for a Joint Secretariat became apparent only after the IFA was negotiated and the body itself is therefore not mentioned in the Agreement.

- (ii) those that support the operations of the joint bodies, the three northern secretariats and Inuvialuit participation; and
- (iii) those that are directed to a specific activity, such as the Harvest Study.

In addition, governments administer environmental and wildlife programs in the Settlement Region as part of their overall responsibilities. The continued funding of these programs is independent of which of the funding options above is chosen.

Simplicity and common sense dictate that funds in category (i) continue to flow from Treasury Board to the two territorial governments and the three federal departments concerned. Now that one-time costs have largely been incurred and now that several years' operational experience exists, these funds should be included in the Formula Financing Grants to the territorial governments and the "A" base of the federal departments.

Simplicity, however, is not served by flowing funds to be expended by the Joint Secretariat and the joint bodies (category (ii) above) through five different government agencies, each with its own reporting requirements. These arrangements complicate budgeting and make it more difficult to transfer funds between years or among tasks. Standardizing the terms and conditions in all contribution agreements with the Joint Secretariat or transferring these funds as grants as much as possible would help and could be implemented right away, provided that the administrative and political will to do so were there. Ultimately, however, simplicity suggests that these monies should flow directly from DIAND to the Joint Secretariat Board, bypassing the GNWT and the federal departments. The GNWT has indicated its support for this option.

The operations of WMAC (NS) are funded through a contribution agreement with the Yukon government. In order to ensure consistency and maximise the opportunities for the overall effectiveness of wildlife management in the ISR, it would make sense for WMAC (NS) to be funded in the future on the same basis as the other Joint Bodies. Should this option prove to be politically impractical, current arrangements should be maintained.

The same judgment applies to the Harvest Study, which is now funded by the GNWT and two federal departments. We believe, therefore, that future decisions about the Study should be taken by the board of the Joint Secretariat.

4.4.2 Responsibility

A fundamental issue in the IFA implementation is: who should be responsible and accountable for making the spending decisions in categories (ii) and (iii) above? Under the IFA, government remains responsible for wildlife management and the IFA joint bodies are technically advisory bodies to certain federal and territorial ministers. As residents of the area, however, the Inuvialuit have the most direct stake in ensuring environmental protection and wildlife conservation. This vested interest suggests that the responsibility for spending decisions related to these matters be transferred to the Joint Secretariat Board to the greatest extent possible.

Some participants in this evaluation have argued that, if the Joint Bodies were to be funded directly through the Department of Indian Affairs and Northern Development, the agencies that now fund them directly would gradually lose interest in them and pay less attention to them in the future. Thus, they argue that a change in funding arrangements risks diminishing the effectiveness of these bodies over time. We disagree. There are probably as many examples of ineffective institutions funded by government as there are of effective financially-independent ones.

- Option 3 is a variant of Option 2 and has been described as the Modified "A" base model. It would include assurances, through special allotments of funds, that the departments would not redeploy IFA implementation funds to other activities, the possible creation of a reserve to fund public reviews, the pooling of resources to support the joint bodies, and periodic adjustments to the "A" base to cover any increases in costs. This option offers the advantages of greater flexibility, decentralization and certainty than Options 1 and 2 but has the disadvantage of remaining administratively complex.
- Option 4 would have the federal government make an indexed "block funding" grant to the Joint Secretariat Board through DIAND, bypassing other departments and the territorial governments for all funds, except those required for operational reasons (e.g., the cost of departmental participation in the joint bodies). This option would require making changes to the Joint Secretariat (see section 4.4.2 below). The advantages of this formula are that it is simple, transparent, moves the locus of decision-making and accountability to the Joint Secretariat Board, reduces reporting requirements, forces the joint bodies to reach their own trade-offs and allows maximum flexibility in reallocating money, including carrying surpluses from year to year. Option 4 may require an amendment to the IFA to remove reference to the financial obligations of certain government agencies and make these corporate responsibilities of the government.

It was impossible for us to determine the political prospects for amending the IFA. In an election year, political attention is understandably turned elsewhere. We do note, however, that the IFA has been amended three times already.

4.4 Analysis

Some clarifying comments need to be made before analysing these options:

- Although superficially attractive in making government's IFA-related spending visible, special allotments (Option 3) provide in fact little protection to the Inuvialuit since Treasury Board remains free to reallocate these funds. The Inuvialuit's most effective recourse to ascertain whether the government is allocating enough money to meet its obligations is to analyse the annual report on IFA implementation which the government is obliged to publish.
- The government's current practice with regard to block funding (Option 4) is to index it for a set period of time, usually 5 years, after which a decision is made whether to index further.
- Treasury Board will resist any periodic adjustments in departmental "A" bases (Option 3) as long as today's climate of fiscal restraint continues.

Everybody agrees that future funding arrangements need to be made less cumbersome than the present ones. This view eliminates Option 1. The choice among the remaining three options should be made on the basis of two principal criteria: simplicity and responsibility.

4.4.1 Simplicity

IFA implementation funds fall into three categories:

- (i) those that support the incremental operational requirements of government agencies (federal and territorial) directly attributable to the IFA;

Table 2

EXPENDITURES BY TASK BY FISCAL YEAR

TASK	DESCRIPTION	1984/85	1985/86	1986/87	1987/88	1988/89	1989/90	1990/91	1991/92*	1992/93*	1993/94*	TOTAL
No 1	Approval Proc	1,113,932	0	0	0	0	0	0	0	0	0	1,113,932
No 2	Elig & Enrolmt	481,950	283,947	22,305	52,750	35,266	0	0	0	0	0	876,218
No 3	Legal Review	0	0	50,000	65,499	99,935	103,202	0	0	0	0	318,636
No 4	Title Admin	0	0	58,400	30,000	11,935	1,100	620	10,000	0	0	112,055
No 5	Ground Surveys	0	0	941,271	1,457,781	1,047,426	1,150,000	1,100,000	1,700,000	1,700,000	1,700,000	10,796,478
No 6	Land Admin	0	0	23,000	46,039	28,931	29,888	31,000	0	0	0	158,858
No 7	Sand & Grav Inv	0	0	175,000	64,000	138,254	37,600	55,000	116,900	73,000	31,600	691,354
No 8	Sand & Grav Roy	0	92,900	190,000	110,254	54,747	119,334	104,194	123,000	92,000	96,000	982,429
No 9	EISC	0	1,500	26,300	81,698	61,583	65,701	67,966	76,340	79,390	82,569	543,047
No 10	EIRB	0	0	55,000	140,252	109,097	165,391	256,062	107,120	111,198	115,650	1,059,770
No 10a	Public Hearings	0	0	0	0	0	0	135,279	225,500	234,580	244,000	839,359
No 11	NS Ann Conf	0	0	0	0	3,512	34,350	53,609	48,000	49,920	51,917	241,308
No 12	WMAC (NS)	0	0	67,800	352	88,041	145,122	148,600	135,300	140,710	146,335	872,260
No 13	WMAC (NWT)	0	0	53,000	73,329	134,262	139,085	134,671	102,670	106,780	111,040	854,837
No 13a	Cons Plans	0	0	0	0	0	0	0	32,620	33,930	35,280	101,830
No 14	FJMC	0	0	256,000	191,748	259,512	284,880	215,260	143,300	155,000	168,000	1,673,700
No 15	Fishing Regs	0	0	5,000	0	40,000	52,400	15,408	15,000	15,000	15,000	157,808
No 16	RAC	0	0	0	0	0	0	0	32,150	32,860	33,600	98,610
No 17	IGC	0	0	103,200	137,666	272,816	314,114	343,307	331,410	344,670	358,460	2,205,643
No 18	HTCs	0	0	0	64,500	228,000	238,490	234,959	257,950	268,270	279,000	1,571,169
No 19	Wild Mgmt Pgms	0	0	954,000	1,431,770	1,792,564	1,689,783	1,626,041	1,829,530	1,778,700	1,459,336	12,561,724
No 19a	WMP (one-time)	0	0	0	0	0	0	0	190,270	2,701,880	2,806,479	5,698,629
No 20	Joint Sec	0	0	538,500	588,717	754,202	706,792	772,835	922,200	934,300	989,300	6,206,846
No 21	Yukon Sec	0	0	49,500	143,305	84,672	52,508	94,651	65,060	67,662	70,369	627,727
No 22	Arb Brd	0	0	0	0	8,964	10,978	3,468	120,170	120,980	121,820	386,380
No 23	Ec Plng Conf	0	0	53,960	0	0	0	0	0	0	0	53,960
No 24	Ec Measures	0	0	49,200	133,120	158,910	156,104	160,197	178,750	185,900	193,340	1,215,521
No 25	Herschel Is Pk	0	0	391,000	459,989	623,016	559,126	591,062	272,200	283,088	294,412	3,473,893
No 25a	HIP (one-time)	0	0	0	0	0	0	0	199,400	92,912	108,452	400,764
No 26	NYNP	0	0	1,200,000	1,032,000	1,180,000	790,000	520,000	530,000	530,000	530,000	6,312,000
No 27	WACIS	0	0	55,000	25,467	34,873	32,254	32,867	79,440	83,420	87,550	430,871
No 28	Start-up Funding	0	1,372,634	1,400,000	0	0	0	0	0	0	0	2,772,634
	Unallocated	0	0	0	0	0	0	0	0	0	142,738	142,738
	Lapsed Funding	0	0	0	0	0	0	61,802	0	0	0	61,802
	Inuvialuit Part	0	0	0	0	0	0	0	172,730	179,640	186,840	539,210
	TOTAL	1,595,882	1,750,981	6,717,436	6,330,236	7,250,518	6,878,202	6,758,858	8,017,010	10,395,790	10,459,087	66,154,000

* Treasury Board Allocations.

Note: The amounts on the last line "Inuvialuit Participation" have been allocated but not spent as they require an amendment to the IFA

Source: Western Arctic Claims Implementation Secretariat (1992): Funding Mechanisms for Ongoing IFA Costs.

of Fisheries and Oceans and all related costs are paid by DFO.

Finally, the Harvest Study receives funding from three sources: Environment Canada, Fisheries and Oceans and the GNWT. These funds are administered by the Joint Secretariat and include the costs for a resource person who coordinates the study and 7 half-person year field workers who are based in the communities.

The financial disbursements under each task of the IFA for the first ten years of implementation appear as Table 2.

4.3 Options for Ongoing Funding Arrangements

There is not much to be gained in our view from documenting here all the perceived and real problems related to funding which have arisen since 1986. All parties agree that new funding arrangements are necessary. Given that there is an opportunity to change funding arrangements starting in 1994, it is more productive to examine options which have been put forward in light of the experience gained.

Before doing so, an important point needs to be made. The current complexity of funding arrangements has arguably confused the respective responsibility and accountability of all participants. The terms of the contribution agreements have given the government agencies a *droit de regard* on the operations of the Joint Secretariat which many people interviewed have considered to be intrusive. The rigidity of the funding arrangements has both reduced the incentive for the Joint Bodies and the Joint Secretariat to maximize the efficiency of their operations and constrained their ability to make financial and policy trade-offs.

Four broad funding options exist, each with its variants. The first three of these options, and their merits, are described in the draft 1992 discussion paper by the Western Arctic Claims Implementation Secretariat entitled *Funding Mechanisms for Ongoing IFA Costs*. The fourth option was defined during the course of this evaluation. These options can be summarized as follows:

- Option 1, periodic omnibus Treasury Board submissions, is the status quo. It offers the advantage of making IFA funding highly visible and thus reduces the risk of government redirection of funds, a concern which both the Inuvialuit and the GNWT have expressed in the past. Because it also imposes onerous administrative requirements, it is time-consuming and creates uncertainty. It has few, if any, advocates.
- Option 2 is the "A" base model. In this option, the budgets of the federal departments concerned (DOE, DFO and DIAND) would be adjusted to take the federal government's financial obligations into account. The departments would then fund the implementation costs of the territorial governments, the joint bodies and the Inuvialuit through the mechanisms of their choice (*viz.*, grants, contribution agreements). The advantages of this option include making annual spending renewals routine and giving greater management control to the territorial governments than they now have. Concerns have been expressed, however, that over time departments might redirect implementation funds to non-IFA activities and might have to absorb internally the non-predictable costs of public reviews.

2) The Contribution Agreement with DIAND provides funding for:

- the Environmental Impact Screening Committee;
- the Environmental Impact Review Board; and
- the administration and staff support for both EISC and EIRB.

3) The Contribution Agreement with DFO provides funding for:

- the Fisheries Joint Management Committee (Inuvialuit and Chairman costs);
- the Fisheries Joint Management Committee (staff support);
- beluga monitoring;
- the beluga management strategy plan; and
- a component of the Harvest Study.

In addition to these contribution agreements, Environment Canada provides financial support to the Harvest Study by way of a contribution from the Canadian Wildlife Service. Financial support for the Herschel Island Park Planning Committee was provided by way of contracts with the YTG's Department of Renewable Resources.

- Funding for the Yukon government Implementation Secretariat is provided by the Government of Canada through a contribution agreement to the Yukon Government.
- Funding for the Wildlife Management Advisory Committee(North Slope) Secretariat in Whitehorse is provided by the YTG through a contribution agreement with the WMAC(NS).
- The Western Arctic Claim Implementation Secretariat (WACIS) is located in Hull. It receives some implementation funding for operational expenditures. Salaries for WACIS staff (2 person years per annum), however, are paid for out of DIAND's A-base, not implementation funding.

The Inuvialuit participation costs include the costs related to the operations of (i) the Inuvialuit Game Council, (ii) the Hunters and Trappers Committees and (iii) the costs of participating on each of the joint bodies. These costs are funded as follows:

- The Inuvialuit Game Council. The GNWT provides funds to cover IGC operating costs, participation of IGC members in approximately six IGC meetings a year, and participation of IGC members in committees such as the Arctic Waters Advisory Committee, where the Council does not have a permanent seat but may be asked to attend.
- The Hunters and Trappers Committees (HTCs). The 1987 Treasury Board decision included a budget allocation for the six Committees. In addition, the GNWT makes available from its core funding approximately \$15,000 per HTC for operations; the actual amount a community receives depends on factors such as the number of trappers and the number of residents in the community.
- The joint bodies. The Inuvialuit and the government have disagreed as to who should be responsible for the cost of Inuvialuit representation on the EISC, the EIRB, the WMAC(NS) and the WMAC(NWT). The 1987 Treasury Board decision agreed that government could accept these costs provided the IFA was amended to reflect them as costs of the GNWT. The GNWT has been paying for IGC costs from Vote 1 of its core-funding (not implementation funding) in the hope that it will be reimbursed by the federal government once the IFA is amended. The FJMC was established by the Minister

A third Treasury Board decision dated 1991 approved funding for the period April 1, 1991 to March 31, 1994, that is, to the end of the first ten-year period. This decision also requires DIAND to (i) report back to the Board by October 1, 1993 on the allocation of on-going funding and (ii) recommend a funding mechanism for the long-term. The Board also approved \$5.1 million for completing the one-time task of wildlife studies.

4.2.1 Structure of Funding Arrangements

The funding arrangements devised to implement the IFA are complex. They involve the two territorial governments and three federal departments (DIAND, DFO and DOE). This structure was dictated primarily by the IFA itself which identifies each of these agencies as responsible for the funding of certain tasks.

The joint bodies are funded as follows:

- Funding to support Environmental Impact Screening Committee (EISC) and Environmental Impact Review Board (EIRB) operations (administration costs and salaries for two staff members) is provided through contribution agreements between DIAND and the Joint Secretariat and is administered by the Joint Secretariat. Contribution funds are also provided to the GNWT and the YTG to pay for their members' costs. These funds are administered by the respective territorial government, not by the Joint Secretariat.
- Funding to support the Fisheries Joint Management Committee (FJMC) is provided by DFO. This comprises (i) the contribution made to the Joint Secretariat to run the FJMC, and (ii) operational funds retained within DFO to be used for contracts and expenditures approved by the FJMC. In 1990-91, DIAND also contributed to FJMC costs by reallocating lapsing funds for the Arbitration Board.
- The Wildlife Management Advisory Council(NWT) (WMAC(NWT)) receives its funding through a contribution agreement between the GNWT and the Joint Secretariat. In addition, DOE covers its membership costs on the committee and staff back up in the regional office.
- Funding for the Wildlife Management Advisory Council(North Slope) (WMAC(NS)) is both provided and administered by the YTG. As with the WMAC(NWT), Environment Canada funds directly its membership on the committee and staff back up in the regional office.

The four secretariats that administer the IFA are each funded separately.

- The operations of the Joint Secretariat, located in Inuvik, and the committees it administers, are funded by contribution agreements with the GNWT, DIAND and DFO.
 - 1) The Contribution Agreement with the GNWT Department of Renewable Resources provides funding for:
 - the Inuvialuit Game Council;
 - the Wildlife Management Advisory Council(NWT);
 - the Joint Secretariat administration;
 - the Inuvialuit participation costs for the EISC, EIRB and WMAC(NS); and
 - the Harvest Study (component - separate contribution agreement).

recommendations made in this report (e.g., additional training, higher honoraria, creation of IGC secretariat). Such detailed calculations were outside the scope of this evaluation. Environment Canada should be responsible for determining the funding requirements of the North Yukon National Park as it is part of a national programme.

- Most of the one-time costs associated with the implementation of the environmental and wildlife management provisions of the IFA have already been incurred. The parties agreed in 1992 on the additional spending needed to complete baseline wildlife studies. All one-time costs are to have been incurred by the end of the first 10-year implementation period.

4.2 Implementation Funding Retrospective

The current funding arrangements for the IFA are described in detail elsewhere and will therefore only be summarized here¹⁸. In a nutshell, the federal government funds the activities of the joint bodies and the Joint Secretariat, primarily through direct contribution agreements with the Joint Secretariat, but also indirectly through contribution agreements with the territorial governments.

In the 1985 Treasury Board submission, the government estimated implementation costs by identifying a series of discrete tasks needed to implement the Agreement. These were divided into one-time and on-going tasks. One-time tasks were originally estimated to be completed within ten years for a total estimated cost of \$16.1 million. On-going tasks were estimated at \$3.954 million per annum (in 1984 dollars). Cabinet approved these estimates, which when added together resulted in a total of \$55.64 million for the ten year period. Cabinet also recognized that on-going costs would extend beyond the initial ten-year period.

Before seeking Treasury Board approval, government returned to Cabinet to obtain approval for start-up costs for the Inuvialuit. The government had omitted these from initial cost estimates because it did not believe it was under any obligation to fund them. Cabinet approved an expenditure of \$2.8 million over two years for this task, but at the same time, noted that this funding as well as the estimated \$9 million for the national and territorial parks would have to be found within the \$55.64 million previously approved even though these costs had not been included in initial estimates.

The first Treasury Board submission, in November 1985, requested funding for the 28 tasks identified for a 5-year period, after which there was to be a permanent adjustment to base-level resourcing. It also requested that funding levels be adjusted for inflation. A Treasury Board decision of February 16, 1986 approved funding to the end of March 31, 1988, that is, for three years, and did not include an inflation factor.

A second Treasury Board decision in 1987 approved funding for the period April 1, 1988 to March 31, 1991. Again, Treasury Board Secretariat felt it was too early to make a base-level adjustment for expenditures. Treasury Board adjusted total funding costs from \$55.64 million to \$66.154 million for the first ten years to take inflation into account. The "additional" \$10.5 million was reallocated through the 1987 Treasury Board submission process. The Treasury Board decision also noted that, at the end of the 10-year period, the \$3.954 million assigned for on-going costs would have a new value of \$5.85 million in 1994-95, and would be adjusted by the Consumer Price Index each year thereafter.

¹⁸ Rosemary Wallbank: *Planning Report for the Evaluation of the Implementation of the Environmental and Wildlife Management Provisions of the Inuvialuit Final Agreement* (Evaluation Directorate, Department of Indian Affairs and Northern Development, November 1991).

4 FINANCIAL ANALYSIS

4.1 Funding Overview

Funding has emerged as the single most troublesome issue in the implementation of the IFA. It is also a very sensitive issue about which many of the participants in this evaluation spoke with great vehemence. Perhaps not surprisingly, several of the participants disagreed about the seriousness of the problems that have occurred, the adequacy of the steps taken to correct them and the conclusions one should draw about the government's intentions in implementing the IFA. Although, for many years, the amount of funding was the main bone of contention among the participants, recently it is the allocation and timely flow of funds that have proved more difficult.

The funding arrangements for the first 10-year implementation period have clearly proved frustrating to all participants. Complaints have ranged from "the apparently arbitrary and unilateral allocation of potentially lapsing funds" one year¹⁷, to "the inordinate amount of time and effort" devoted to securing funding, to "the absence of clearly and consistently defined requirements and time line" for budgetary submissions to uncertainty over future levels of funding and delayed receipt of funds, to spending decisions made by the Joint Secretariat. Different terms and conditions imposed on contribution agreements between government departments and the Joint Secretariat have also complicated the administration of these funds.

Many of these problems have been, or are in the process of being, rectified. Thus, lapsing funds have been reallocated and some funding contributions reprofiled, often at the request of the Inuvialuit. Nevertheless, many of the Inuvialuit, chairmen of the Joint Bodies, the Executive Director of the Joint Secretariat and some officials of the territorial governments agree that funding problems have hampered the effective implementation of the wildlife and environment provisions of the IFA. The unhappy experience to date has also raised apprehensions about funding arrangements after March 1994, when current funding authorities expire.

Because funding continues to be such a sensitive issue, it is useful to establish certain facts before reviewing current funding arrangements and discussing possible changes to them. These facts can be distilled into three points:

- The federal cabinet has agreed to spend up to \$5.85 million annually, adjusted for inflation, for the on-going implementation costs of the IFA. The issue, therefore, is not whether money will flow after the current arrangements expire but how it should be allocated (among the Inuvialuit, the territorial governments and the federal departments) and how it should be disbursed. Having noted this, however, it is important to underline that nothing commits the federal government to spend a given amount of money to implement the IFA. Its obligation, rather, is to discharge specific legal responsibilities. If it can do so for less money, this should not concern the Inuvialuit.
- Overall funding levels appear to be satisfactory although some tasks appear to be underfunded (e.g., the activities of the Fisheries Joint Management Committee, the Hunters and Trappers Committees and the National Park). This observation hinges upon (i) calculating whether the ability to bank money year to year (i.e., no lapsing of funds) and to reallocate funds more freely among tasks will be sufficient to make up for these shortfalls (see below); (ii) adjusting spending levels for the higher inflation rate prevalent in the North; (iii) determining the precise cost of implementing the various

¹⁷ Letter from the Chairman of the Wildlife Management Advisory Council (NWT) to the Minister of Indian and Northern Affairs, Feb 15, 1991

- the satisfaction expressed by almost all of the persons interviewed about the general functioning of the wildlife and environmental parts of the Agreement. An Inuvialuk we interviewed stated "We have an A-1 agreement; we have good people";
- the greater involvement of the Inuvialuit in matters of wildlife and environmental management that affect them directly. An Inuvialuk said "The main thing is we are now getting everyone around the table – for this reason things are much better now than they were";
- the good team-work and the tendency to operate on the basis of consensus demonstrated by the joint bodies established to manage renewable resources and evaluate environmental impacts;
- the general sense that the overall quality of the environment and health of the wildlife populations are being maintained, although there may not be hard data to support this observation; and
- the general acceptance of the adequacy of total financial resources to implement the provisions of the IFA, although some tasks (e.g., the National Park, the Hunters and Trappers Committees and Fisheries Joint Management Committee) have consistently demonstrated the need for more funds.

Success can also be measured by the avoidance of problems or costs. According to one interviewee, "the activities of the joint bodies can actually prevent some disputes from arising because of the information exchange they engender". In a similar vein, the chairman of the Fisheries Joint Management Committee has argued that the user-based wildlife management agreements which the Inuvialuit have negotiated with the Inupiat of Alaska have saved governments large sums of money.

As we have seen, problems do exist but where they occur, they "relate to attitudes more than anything else", in the words of an interviewee who has worked on both sides of the Agreement.

The successes to date must be tempered by the fact that the IFA has yet to be fully tested. The drop in world oil prices and the consequent collapse in oil and gas activity in the Delta and Beaufort Sea, along with a general downturn in the economy, have diminished the intensity of the wildlife and environmental conflicts in the region. Had non-renewable resource activity remained high, the joint bodies would have had more difficult trade-offs to make: the inherent tension between the Inuvialuit Game Council and the Inuvialuit Regional Corporation would likely have been exacerbated, differences among the two territorial governments and Ottawa would likely have been more evident, and the divergence among government, industry and Inuvialuit priorities might well have caused greater polarization. So, despite the considerable hardship caused by the downturn in the economy of the region, implementation of the IFA has benefited from a grace period that has allowed the public and private sectors, and Inuvialuit institutions, to adjust to a new regime.

One of the frequently-cited examples of an imbalance in the functioning of the joint bodies relates to the failure of the Environmental Impact Screening Committee to screen an exploratory well on 7(1)(a) lands (Esso PC 1, Home *et al* Tuk E-20; spudded Jan 25, 1991). The Screening Committee's procedures at that time did, in fact, exempt Inuvialuit private lands. The concern here perhaps stems less from bias than from conflicting interpretations of the IFA. As recently as September 1992, the Inuvialuit Regional Corporation has argued that the screening process applies on 7(1)(a) and 7(1)(b) lands only if the project is referred to the Committee by the Inuvialuit (meaning the Corporation). The Inuvialuit Game Council, which also speaks for the Inuvialuit, takes a broader view. In September 1992, the Screening Committee obtained a legal opinion that its authority to screen was not as restricted as the IRC argues, especially on 7(1)(b) lands¹⁵.

We understand why government officials find the Inuvialuit Regional Corporation's argument disturbing as it appears to call into question the principle of co-management. This makes what is superficially a legal technicality an issue with broader ramifications (see discussion on partnership in Section 5.1.3). We believe that it is in everybody's interest that it be resolved quickly.

3.5.2 Apprehension about conflict of interest

Several government officials believe that the chairmen of the three wildlife-related committees have placed themselves in a position of conflict of interest by representing the Inuvialuit Game Council on certain matters. Several of these officials indeed stated that they perceived the chairs as "working for the Inuvialuit." The chairmen can jeopardise their credibility as being objective (i.e., reflecting the views of their committees) if, in some instances, they also represent one of the parties to the IFA on wildlife management issues. A frequently-cited example of this conflict was that these chairmen represented the Inuvialuit Game Council on the Advisory Committee to this evaluation. In this regard, a government official stated that "the co-management chairs should be aware that it's not the letter of neutrality that has to be followed, but also the perception of neutrality".

As pointed out above, the chairman of the Inuvialuit Game Council and the individuals in question disagree that these actions have placed them in a position of conflict of interest. We recommend nevertheless that:

24. *the Board of the Joint Secretariat develop a code of ethics to guide the activities of its members.*

3.6 Summary

We have reviewed above the performance of each of the Joint Bodies created under the IFA, the Joint Secretariat, the Inuvialuit Game Council, the Hunters and Trappers Committees and the agencies of the three governments involved in implementing the environmental and wildlife management provisions of the IFA. As we have already stated, we conclude that there is a high level of satisfaction overall with the implementation of these provisions. This conclusion¹⁶ is based on:

¹⁵ See September 9 letter from Dr. A. R. Thompson to Marshall Netherwood re: the jurisdiction of the Environmental Impact Screening Committee. This legal opinion is not accepted universally.

¹⁶ This conclusion is supported by the Chairman of the Inuvialuit Game Council who declared in 1991 that "co-management has been proven to be a system that works for the benefit of Inuvialuit, the land and its wildlife". Quoted in Mike Robinson and Lloyd Binder, *op. cit.*

These differences are particularly obvious on three issues which proved particularly sensitive:

- whether some of the five joint bodies and the Joint Secretariat have become “biased” or predisposed towards the Inuvialuit;
- whether the relationship between the Inuvialuit Game Council and the Joint Secretariat raises an apprehension, if not the reality of bias (already addressed above); and
- whether the chairs of some of the joint bodies face potential conflicts of interest.

Most government officials on the one hand and the Inuvialuit, four of the chairs of the Joint Bodies and the Executive Director of the Joint Secretariat on the other are divided on these issues.

We believe that, unless it is resolved, the perception of imbalance in the co-management regime could eventually affect the legitimacy, and ultimately the effectiveness of the joint bodies. If governments see the joint bodies as having been “captured” by the Inuvialuit, they will likely resort to other means to reassert their authority (e.g., instructions to their nominees, approval of future chairs, terms and conditions on budgetary appropriations). Industry confidence could also be diminished. In such circumstances, the joint bodies would find it increasingly difficult to function properly.

3.5.1 Concerns About “Imbalance” in the Co-Management Regime

As bilateral government/Inuvialuit organizations with equal membership from each side, the five joint management bodies are meant to function as ‘neutral’ fora, subject to the three principles and other provisions of the IFA. The operations of these bodies, however, have sometimes given unfortunate impressions. In its 1987 review of the IFA's implementation, for example, the consulting firm Peat Marwick (KPMG) noted that, in its view, the Inuvialuit Game Council and one of the Joint Bodies, and the WMAC (NWT) had “merged operationally”.¹⁴

The concerns expressed about imbalance should not be ignored. It is imperative, however, that they be placed in perspective. The IFA creates an institutional structure explicitly designed to shift authority away from governments and towards the Inuvialuit. This intent permeates the IFA and begins with the three principles of the IFA — principles that were agreed to by both parties as their mutual expression of the goals of the Agreement. These principles advocate Inuvialuit interests: preservation of cultural identity and values; equal and meaningful participation in the economy and society; and protection and preservation of the Arctic wildlife, environment and biological productivity. To note that the joint bodies entrusted with implementing the Agreements reflect these principles is, in our opinion, a sign of administrative success. Some of the individuals who expressed concern about bias did not seem to appreciate fully the implications of the IFA principles for the operations of the joint bodies.

There is also the related matter of the joint bodies’ responsiveness to the Inuvialuit. Four of the five joint bodies as well as the Joint Secretariat were located in Inuvik deliberately to ensure they would respond to local (Inuvialuit) concerns. Unlike government or industry, the Inuvialuit have few professional resources to draw upon. By necessity, they must rely on the services of the joint bodies more than does government. Although this reliance is a fact of life, it can also foster a perception of bias.

¹⁴ KPMG Peat Marwick: Review of the Government Implementation of the Inuvialuit Final Agreement, June 16, 1987. At issue here is not the accuracy of this statement but rather the fact that it was made.

Study in detail, and come to agreement on how the study is to operate and be funded over the long term.

3.4.2.2 Adequacy of Funding

During the evaluation, the IGC expressed concern that "inadequate support beyond the 10 year implementation period will result in the failure or significant diminishment of the entire collective mandate for the IGC because the need for wildlife studies is an integral component of all environmental and wildlife requirements of the IFA". For its part, the government argues that no clause in the IFA explicitly directs it to fund wildlife studies although many participants in this evaluation agree that this requirement is implicit in all sections of the Agreement dealing with wildlife.

The IFA does not alter the governments' fundamental responsibilities for wildlife management in the Settlement Region although it imposes additional obligations on them. The governments' obligations under the IFA are dictated by the need to set sustainable harvest levels. In order to set these, it must conduct the necessary wildlife studies. In most other parts of the country, the government may close harvest activities if insufficient information exists. This option is not available in the Inuvialuit Settlement Region and implies therefore a higher level of expenditure for these studies than the national average.

This observation, however, is too imprecise to guide budgeting decisions. One of the government participants in this evaluation asked rhetorically: when is there enough information to meet the government's obligations? what is the marginal value of continuing studies? should resources be reallocated to collecting ecological information rather than harvest data? There are obviously no "correct" answers to these questions, in large part because the issue of incremental cost was never really resolved at the beginning of the implementation process: in other words, what was to be a net additional obligation of government as a result of the IFA and what was part of on-going, and perhaps unmet, responsibilities? At a time of budgetary restraint, it is in the interest of government agencies to argue that wildlife studies flow directly from IFA obligations and are not part of the normal discharge of their mandate. This is not a matter which we can resolve in this evaluation. The Inuvialuit and the governments involved will have to reach an understanding concerning the appropriate level of government activity in this regard.

By contrast, the Implementation Plan for the Gwich'in Comprehensive Land Claim Agreement identifies a specific amount (\$2,030,000) for wildlife studies as discharging the federal government's obligations in this respect. The adequacy of this funding is to be reviewed five years after the start of implementation.

We recommend that:

22. *in the course of developing the recommended five year program plan, the Board of the Joint Secretariat review the current operation of the Harvest Study in detail, and come to agreement on how the study is to operate and be funded over the long term.*
23. *The Inuvialuit and the governments involved reach an understanding concerning the appropriate level of government activity in wildlife studies.*

3.5 Qualifying Factors

An important consideration needs to be introduced at this point. Evaluating effectiveness is always a subjective exercise: reasonable people often disagree about how to assess performance. This is particularly true in the case of the IFA where, as we have stated in the introduction, many of the individuals involved in implementation have different "world views".

3.4.1 Description

The IFA provides for the participation of the Hunters and Trappers Committee and the Inuvialuit Game Council in the collection of wildlife harvest information. The Harvest Study aims to collect information to help establish the fish and wildlife needs of the Inuvialuit, help inform wildlife management in the settlement region, and help determine compensation in the event of environmental and wildlife loss in the ISR from development initiatives.

In addition to these programs, the GNWT Department of Renewable Resources has increased its wildlife management activity in the Settlement Region by a factor of six over pre-IFA levels and now spends an annual implementation budget of over \$1 million to cover research and management activities. The Department also engages in some work not covered by implementation funding, such as the development of polar bear management agreements. Studies have also been conducted on grizzly and polar bears, waterfowl and muskox. Nine reports dealing with wildlife management in the Settlement Region were published in 1989 and 1990.

For its part, the Yukon government has used IFA funds to conduct studies of caribou, wolves and wolverines as well as vegetation and habitat studies. The cost of these studies over the past five years has exceeded \$850,000.

3.4.2 Assessment

The Wildlife programs epitomize perhaps better than any other case the differences between the government and the Inuvialuit described elsewhere in this report. To the Inuvialuit, the wildlife programs are of central importance to supporting the principles of the IFA. The government, on the other hand, must rationalize the level of effort it dedicates in the ISR to this purpose compared to the rest of the country.

3.4.2.1 Definition and Utility of the Harvest Study

The interviewees' comments on the Harvest Study ranged widely in nature. Some people remarked that the study is regarded as a model for application in other land claims and that it has received recognition outside of the ISR. They hold that the study was meant to be an ongoing task, principally to support compensation determination. We were told that the study needs additional support if it is to achieve its full potential. In particular, additional effort and training is required to make the GIS fully operational. Once this is accomplished, it was argued that the study could result in significant cost savings to government agencies which would otherwise have to collect and manage the information being generated by the study. As well, it is expected that the study can continue more cheaply once the GIS is fully functional.

The contrary view is that the study is expensive and should not be left to run open-ended. We also heard a few people state that they do not believe the study is producing the data which are really needed, and that the study needs to be reviewed and changed. Fluctuations in the funding of the Harvest study and the profiling of funding over the years have been contentious and raised questions in some people's minds about the validity of the data which the study produces.

It is clear that there is a measure of uncertainty, if not confusion, surrounding the merits and the quality of the Harvest Study. We believe that our recommendation for transferring responsibility for spending decisions from the federal government to the Board of the Joint Secretariat should allow an easier reconciliation of the differences in the participants' interests described above. We further suggest that in the course of developing the recommended five year program plan, that the Board of the Joint Secretariat review the current operation of the Harvest

For many in the Canadian Parks Service, on the other hand, the IFA represented a loss of traditional management control since the IFA not only created the North Yukon National Park but also established its management regime. The fact that the Parks Service received no increase in its "A-Base" or person-year complement to cover the costs of the Park (it did receive \$5.6 million in implementation funding between 1986/87 and 1991/92), and was not allowed to make a separate Treasury Board submission turned the park into an opportunity that some in the Parks Service would have preferred to forego. The attitude that the park was "imposed" on the Service without adequate resources is disappearing but it has coloured the way in which many in the Service have seen the IFA to date.

The IGC has described its relationship with the Yukon government as "uncooperative and hostile". For their part, Yukon government officials complain that the Inuvialuit consider the Yukon's role in implementing the IFA as peripheral. Still, these officials acknowledge that the Yukon Government has yet to become fully engaged in IFA implementation. This situation has a lot to do with geography and the fact that there are no long-term Yukon residents in the ISR.

3.3.4.3 Consequential legislation

When the Inuvialuit signed the IFA, they gave up their aboriginal title. In return, the federal government assumed a constitutionally-entrenched obligation to discharge the responsibilities it had accepted. It is important to remember this trade-off because the Inuvialuit lost much of their bargaining leverage when they signed the IFA. The government remains today as morally and legally obligated to fulfill the terms of the IFA as it was nine years ago.

A number of regulatory amendments to the NWT Fishery Regulations, the Yukon Fishery Regulations, the Walrus Protection Regulations and the Beluga Protection Regulations (all under federal jurisdiction) are necessary to conform to the provisions of the IFA. These regulations came into effect on January 1, 1991, six and a half years after the IFA came into force.

The *NWT Wildlife Act* also needs to be amended to ensure its conformity with the IFA. Several people commented on how the implementation of the IFA's wildlife provisions has been hampered by the slowness with which wildlife regulations in the GNWT have been amended to reflect community by-laws passed by the HTC's. A bill with these amendments was tabled in the NWT legislature and then withdrawn when several additional amendments unrelated to the IFA were introduced.

The Yukon government has not yet amended the *Yukon Wildlife Act* to reflect the provisions of the IFA.

We find that governmental tardiness at passing legislation consequential to the IFA has been a major source of frustration. In our opinion, continuing delays undermine confidence in the governments' commitments and, hence the IFA itself. We therefore recommend that:

21. *The territorial governments introduce legislation amending their respective Wildlife Acts to reflect the provisions of the IFA as soon as possible.*

3.4 Wildlife Management Programs

The Wildlife management programs, of which the Harvest Study is part, are the single most expensive IFA implementation task and will have cost \$18.2 million by the end of 1993/94. This amounts to 27% of the total implementation costs for the IFA (see Table 2). Because of their importance, they warrant special mention.

implementation of claims.

The section dealing with implementation (pp.94-98) is particularly relevant in the context of this evaluation. It advocated a "phased implementation" as a way to deal with the complexity of the settlements. It recommended periodic adjustments to Agreements, based on early experience with implementation as one way to deal with differences related to interpretation and other problems. It also recommended that arbitration processes be developed to resolve disagreements about implementation, and that annual monitoring of implementation be done by a Parliamentary Committee. More generally, the Task Force Report stated:

Once the negotiations are completed and agreements have been signed, the real challenge begins – the implementation of the agreement. After the signing of treaties or recent land claims agreements, the federal government, lacking a strategy or structure for implementing the terms, often has failed to meet either the spirit or the letter of its commitments. Little consideration has been given to the administrative and other costs of implementation. Some of the problems of implementation could be overcome if government were to consider, before the completion of negotiations, how and when implementation would take place. The key question of "who will be responsible for implementation?" along with the mechanism for implementation, should be considered before negotiations are completed. (p.94,95)

The federal government accepted several recommendations from this Task Force, including those dealing with the preparation of implementation plans, in its new policy on the settlement of comprehensive aboriginal claims.

As we have already seen, some of the issues which have surfaced in the implementation of the IFA are not unique. They were foreshadowed in a different form in Northern Quebec and addressed in the Report of the Task Force to Review Comprehensive Claims Policy.

3.3.4.2 Governments' Attitudes Towards the IFA

During this evaluation, we found a low level of understanding by some employees of public agencies that deal with the wildlife and environmental provisions of the IFA. Such lack of awareness is perhaps not surprising given the factors mentioned earlier (e.g. drop in Beaufort Sea oil exploration, government-wide budgetary restraint). The difficulties this situation poses are fortunately easy to overcome. We recommend that:

20. *Governments take the necessary steps to ensure that public servants whose responsibilities include environmental and wildlife management matters in the Inuvialuit Settlement Region are fully cognizant of the IFA's provisions.*

Interviews with government officials show that they have reacted differently to the IFA bodies. Some welcome their creation as mechanisms which increase the effectiveness of policy and programme development and delivery. Other officials resist the change, sometimes seeing the IFA-created mandates as a loss or a diminution of management control. This difference in attitudes colours the views of several of the people interviewed concerning implementation.

A good example of this difference is to be found within Environment Canada. Through its membership on each of the Wildlife Management Advisory Councils, the Canadian Wildlife Service received a bigger role in wildlife management, including access to information, opportunity to influence budgets and to participate in issues than it had prior to the IFA. CWS has thus tended to look upon the IFA as a welcome opportunity.

3.3.4.1 Land claim policy

The IFA was not the first of the modern claim settlements, the James Bay and Northern Quebec Agreement having been signed in the mid 1970's. Experience in implementing this Agreement is therefore relevant in evaluating the performance of government agencies in implementing the IFA. The Report of the Task Force Report on Comprehensive Claims Policy also helps to place government performance in implementing the IFA in context.

The James Bay and Northern Quebec Review

In March 1981, six years after the settlement of their claims, the Cree and Inuit of Northern Quebec appeared before the House of Commons Standing Committee on Indian Affairs and Northern Development with allegations that Canada and Quebec had not fulfilled their responsibilities with respect to the implementation of the James Bay and Northern Quebec Agreement. As a result, the Minister of Indian and Northern Affairs, with the concurrence of the Minister of Justice and Minister of State for Social Development, initiated a joint review of the implementation of the Agreement. The findings were published in February 1982 in a report entitled James Bay and Northern Quebec Agreement Implementation Review.

Some of the grievances addressed by this 1982 Implementation Review included: wording and interpretation of the Agreement (p.9); the dynamic nature of the Agreement (p.13); expectations arising from the Agreement (p.14); and federal budgetary restraint (p.15). Each of these issues has arisen in the context of the IFA.

The Review also addressed implementation costs and coordination issues. It concluded that "the complexity and cost of implementing the various programs, services and entities established by the Agreement were underestimated by all the parties to the Agreement" (p.91). The Review goes on to say that "the issue should be approached not from the perspective of interpreting the Agreement but rather as a matter of ensuring that the Agreement is effectively implemented." (p.91)

The James Bay and Northern Quebec Agreement Implementation Review summarizes the issues related to implementation this way:

Lack of proper mechanisms, structures and attitudes regarding implementation has been a major impediment to the smooth and efficient implementation of the Agreement. The establishment of more effective systems for implementation can do a great deal to prevent the build up of the type of conflict and tensions which in recent years, have consumed time and resources that could be used much more productively in achieving the aims and objectives of the Agreement. No mechanisms, however will make the Agreement work unless all parties contribute their best efforts. (p.101)

The Task Force Report on Comprehensive Claims Policy

In December 1985, the Department of Indian and Northern Affairs published Living Treaties: Lasting Agreements, The Report of the Task Force to Review Comprehensive Claims Policy. This Ministerial initiative, coming soon after the signing of the IFA, drew lessons from the past and made recommendations for an improved approach to the settlement of the claims in the future. It emphasized the need for certainty and flexibility in the negotiation and

It takes time for new institutions to acquire legitimacy, especially when their mandates overlap with, or supersede, matters previously under the exclusive purview of other agencies. The IFA set precedents in its environmental and wildlife co-management regime. The IFA also created institutions which were untried and whose efficiency and effectiveness were therefore open to question; the new screening and review process duplicated existing government processes because federal agencies were not relieved of their EARP obligations; ambiguity in the intention of certain IFA clauses created confusion about the precise extent of government obligations; cabinet approved less implementation funding than what government agencies thought was necessary to meet their additional responsibilities: any of these factors in isolation would have been sufficient to encourage government officials to interpret the IFA conservatively. Together, these factors compounded each other's effects.

In addition, it is important to note the drop in oil exploration activity, which reduced the Settlement Region's economic importance to Canada, the election of a new federal government in 1984 shortly after the IFA was ratified, the lack of a formal implementation plan and government-wide budgetary restraint, all of which reinforced the tendency of the government agencies involved to move cautiously. The resulting inertia manifested itself in a generally low level of awareness of IFA provisions in government, *ad hoc* funding procedures, the tardiness in transferring funds at the beginning of the fiscal year, the failure to integrate the new environmental review requirement into existing assessment processes and even the slowness in replacing Order-in-Council appointments to some of the Joint Bodies.

The Kulluk hearings provide another example of the consequences of this inertia. It is true that the tension which resulted from the EIRB's hearings on the Kulluk resulted in part from the fact that this was the first time that the Board was conducting a hearing of this scale: many in government and industry did not know what to expect. Yet, we were also told that the government's poor preparation, and the lack of understanding of the Board's mandate by certain government agencies, also contributed to this tension. Some government officials interviewed, for example, saw the EIRB as a review process of last resort, to be applied only if government review processes were not invoked first. They interpreted the scope of the Kulluk hearings and the EIRB's operating procedures as an implicit and unacceptable lack of trust in existing federal review processes. The feelings on both sides of the issue evidently became quite heated.¹³

The government's institutional inertia was one reason why the Joint Bodies and the Joint Secretariat have chosen to promote actively the IFA's implementation. In the process, some government officials have seen them, in our view wrongly, as becoming advocates for Inuvialuit interests. As evidenced in the new comprehensive claims policy and the settlements reached since the IFA, government departments have come a long way in accommodating aboriginal concerns and taking the steps necessary to implement co-management processes and institutions. Even so, one government interviewee commented that "there is no consistent broad vision across governments on how to get [the IFA] off the ground. Government has to understand and embrace the concept of co-management, including funding, and the shifting of government resources geographically. Leaving people in-situ in Ottawa and Yellowknife just doesn't cut it". It is important to differentiate between institutional and individual behaviour in making generalisations such as the ones above.

¹³ According to one interviewee, DIAND officials have sought "in every instance...to restrict, undermine, deflect or belittle the efforts of the EIRB to establish itself as an independent organization". Although government officials who were interviewed on this subject disagreed with this statement, the experience of the Kulluk hearing clearly proved a painful learning experience for all concerned.

Department of the Environment

Environment Canada, through the Canadian Wildlife Service and the Canadian Parks Service, assumes responsibility, respectively, for biological and wildlife studies, and for the establishment and operation of the Northern Yukon National Park as defined in the IFA.

3.3.3.2 Government of the Northwest Territories

The territorial government in Yellowknife has four responsibilities under the IFA: (i) the appointment of the chairperson and territorial members, and providing for a secretariat for the NWT Wildlife Management Advisory Council; (ii) the costs of the Inuvialuit Game Council and the six Hunters and Trappers Committees; (iii) the designation of a member to each of the Environmental Impact Screening Committee, the Environmental Impact Review Board, and the Research Advisory Council; (iv) and the budget of the Research Advisory Council. The Department of Renewable Resources also conducts studies within the Settlement Region.

3.3.3.3 Yukon Territorial Government

The territorial government in Whitehorse, through its Department of Renewable Resources and a Yukon Secretariat, assumes responsibility for four matters under the IFA: (i) the appointment of the chairperson and territorial members and the secretariat for the Wildlife Management Advisory Council (North Slope); (ii) the Herschel Island Territorial Park; (iii) coordination of the Yukon North Slope Conference; (iv) and the administrative support and appointment of members to each of the Environmental Impact Screening Committee, the Environmental Impact Review Board and the Research Advisory Council. The government also contributes to wildlife research.

TABLE 3
IFA EXPENDITURES BY SELECTED AGENCIES

	1989/90	1990/91	1991/92
DIAND	\$381,918	\$676,127	\$413,191
DFO	\$720,880	\$642,481	\$721,540
DOE	\$994,010	\$728,200	\$796,560
GNWT	\$2,753,439	\$2,591,961	\$2,889,056
YTG	\$877,955	\$958,237	\$843,076

NOTE: Some of these monies have been dedicated to matters beyond the wildlife and environmental provisions covered by the terms of reference for this evaluation. Some of these expenditures exclude salaries.

3.3.4 Government Agencies: Assessment

It is important to set the context in which operate the government agencies involved in implementing the IFA's environmental and wildlife management provisions. Although there are obvious differences among these agencies, we consider them together below because, for this evaluation, their similarities are more important than their differences.

3.3.2.6 Training

The Joint Secretariat and the Joint Bodies have already done a great deal within the limits of their contribution agreements to train the Inuvialuit in administering the IFA's environmental and wildlife management provisions. They have held workshops, in-service training, sponsored conference attendance, and worked closely with the Hunters and Trappers Committees so they can run wildlife and fisheries inventory and assessment programs and run programs.

Individuals interviewed on this subject agreed that training needs to be maintained, if not increased, so that the Inuvialuit, in the words of one interviewee can avoid "becoming hostage to high-priced consultants".

For the Hunters and Trappers Committees, the most immediate needs are in basic operational matters such as the keeping of books, development of office skills (particularly in computers and electronic communication) and office management. Other needs more directly related to wildlife surveys, could also be featured in the design and implementation of all of those programs as they are developed.

In our opinion, there is also a need for a more formal means, perhaps with a partner like Arctic College in Inuvik, for training and education related to practical matters of implementing the IFA. Within the communities as well as for members of the various IFA bodies, there is a need to inform and train Inuvialuit better so they can participate more fully in IFA implementation.

We recommend that:

19. *training be increased immediately on basic operational matters such as bookkeeping, development of office skills (particularly in computers and electronic communication) and office management. Other training needs more directly related to wildlife surveys etc. should be featured in the design and implementation of all programs as they are developed.*

3.3.3 Government Agencies: Description

The Western Arctic Claims Implementation Secretariat publishes detailed annual summaries of government agency activities related to the IFA. As these are widely available, we present below only a thumbnail sketch of these agencies' main responsibilities. Annual IFA-related expenditures for each agency are given in Table 3.

3.3.3.1 Government of Canada

Department of Indian and Northern Affairs

The Department's Natural Resources and Economic Development Branch within the Northern Affairs Program administers Crown lands, inland waters and the offshore, and deals with overall environmental protection in the Settlement Region. This Branch also administers the funds for the Environmental Impact Screening Committee and Review Board and monitors implementation of the process.

Department of Fisheries and Oceans

The federal fisheries department is responsible for making policy and regulatory changes to comply with the IFA in areas of harvest, trade, transport and co-management of fish and marine mammals. This department supports and appoints members to the Fisheries Joint Management Committee.

There is a limit to what can be done effectively and efficiently as more demands are placed on the IGC and Committees by other IFA-related and government institutions dealing with wildlife and environmental matters. In almost all communities it is evident that this limit has been met or exceeded. There seems to be a consensus that continued operation under the current part-time and even voluntary arrangements will likely be marked by higher turnover, more difficult recruitment of knowledgeable Inuvialuit, greater slippage of projects, less accountability and poorer community communication and liaison.

The needs of each of the six Hunters and Trappers Committees tend to be different. However, the specifics are less important than the trend as each Committee seeks to meet its obligations for implementation of the IFA. This trend indicates the need for a general upgrading of professional and administrative support. To start, most people concerned about this problem suggested that the current part time positions should be increased to full time positions so that there would be a fully staffed office in each community that can meet the needs of its members as well as the needs of the Inuvialuit Game Council and others.

This suggestion, however, was made conditional on the HTC's prior development of clear workplans.

We recommend that:

16. *greater support be given to the members of the IGC. This could be arranged as part of the redefinition of its staff support services. Other matters that need to be addressed include: the redefinition of part-time obligations and technical and administrative support in the members' home communities.*
17. *the current part-time positions in the HTC's be increased to full-time positions so that there is a fully staffed office in each community.*

3.3.2.5 Remuneration

The GNWT pays honoraria of \$150 a day for the Chairs and \$100 a day for ordinary members, plus expenses, to the members of the Inuvialuit Game Council and Inuvialuit representatives on the joint bodies. These rates are based on a standard scale which the GNWT applies across its jurisdiction. They are low when they are compared with the normal salary which a government official serving on these same bodies draws as a matter of course. They are also low in light of the heavy time commitments which many Inuvialuit representatives of Hunters and Trappers Committees must make to implement the IFA. It should also be noted that these fees are paid for meetings and attendant travel but not for any related preparation time. Paying for scientific knowledge at commercial rates while expecting that traditional knowledge can be supplied cheaply seems inconsistent with the principles behind co-management.

There is no intrinsic reason why the Inuvialuit should be paid through the GNWT, at territorial rates. Indeed, the IFA states that each party is responsible for the remuneration of its members nominated to the Joint Bodies, except the FJMC, on which the IFA is silent. Over the long term, consideration should be given to the IGC setting its own rates for honoraria and paying for them from its own budget.

18. *over the long term, consideration should be given to the IGC setting its own rates for honoraria and paying for them from its own budget.*

training. We address each of these matters below.

3.3.2.3 Independence of the Inuvialuit Game Council

During the evaluation, the IGC noted its "inability to deal with the increasing amount of some of the more technical data that come in" and, consequently, its increasing reliance on the Joint Secretariat staff.

In our view, the current arrangement for administrative and technical support for the Inuvialuit Game Council through the Joint Secretariat is inappropriate for both parties. We believe it creates a conflict of interest for the Secretariat and diminishes the role and function of the Council.

Several interviewees and participants at the December focus group session disagree with this observation. They fear that changing the relationship between the Inuvialuit Game Council and the Joint Secretariat could diminish the practical benefits of the close relationships which have developed, such as the easy access to resource people and files currently enjoyed.

Nevertheless we hold that the Inuvialuit Game Council needs to have its own small technical and administrative staff (perhaps three or four people) if it is to maintain its proper role in implementing the IFA. We note that all three governments continue to be supported by their own staff. Representing one of the parties to the IFA, we believe that it is inappropriate for the IGC to be dependent on the Joint Secretariat, a subordinate institution to the parties. This would relieve the conflict now inherent in the relationship with the Joint Secretariat and it would permit the more appropriate delivery of services and advice to other Inuvialuit and non-Inuvialuit organizations. It would also place the Council on a more equal footing with the Inuvialuit Regional Corporation and thereby allow more successful resolution of wildlife and environmental matters by the Inuvialuit themselves (see above). At issue is who should pay for this technical and administrative staff.

We recommend that:

15. *the IGC be supported by its own small technical and administrative staff.*

3.3.2.4 Workload and Support Services

The Chairman of the IGC is a full-time, salaried employee; the remaining members of the Council serve in a part-time capacity but in a way that consumes large blocks of their time. We found that, as with the Inuvialuit Game Council, the members of the Hunters and Trappers Committees are also faced with a greater and more complex work load than seems to have been anticipated originally, with only part-time dedication of resources. Examples of this increased workload include the HTC's involvement in the environmental impact screening process and in the negotiation of overlap agreements with neighbouring aboriginal organisations. There is wide concern among those interviewed -- members of the six Hunters and Trappers Committees and with those who interact with those Committees on a regular basis -- regarding the adequacy of professional and administrative support at the community level.

In our opinion, although the members of the Inuvialuit Game Council and the HTCs have been able to cope with the workload to date, the burden is too heavy to allow the obligations imposed by the IFA to be met effectively and efficiently on a prolonged basis. This is particularly worrisome given the pivotal role that the Council and HTCs play in the functioning of all the wildlife management and environmental matters under the Agreement.

3.3.2 The Inuvialuit: Assessment

3.3.2.1 Balancing Environmental and Economic Factors

The IFA followed the conventional wisdom of the time in establishing two separate entities, the Inuvialuit Game Council and the Inuvialuit Regional Corporation, to address environmental and economic matters respectively. This cleavage was extended to the community level in the separation of responsibilities between the Hunters and Trappers Committees and the Community Corporations. In this way, the IFA mirrors the dichotomy institutionalized in governments.

The IFA is silent on how to reconcile environmental and economic imperatives (the challenge of sustainable development) even though this tension is inherent in the three principles of the Agreement (see Section 1.3.1 above). The matter increases and prolongs the tension between the two leading IFA institutions on either side of the resulting environment-economy debate: the Inuvialuit Game Council and the Inuvialuit Regional Corporation. Having received both title to settlement lands and cash compensation, the Regional Corporation can apply a great deal of pressure to influence development in the Settlement Region. The Corporation, for example, refused to endorse the land use plan produced for the Mackenzie Delta/Beaufort Sea because it disagreed with the special protected areas which the Inuvialuit Game Council, among others, had recommended. The tension between the IGC and the IRC was also evident during the Kulluk review.

How are these differences to be reconciled? It is obviously up to the Inuvialuit to decide but, without a more formalized method of dealing with the cleavage institutionalized by the IFA, what may at present be creative tensions could turn into destructive, interagency power struggles. A recent paper recommends, among other things, an annual conference, open to Inuvialuit shareholders, between the IGC and IRC to evaluate the past year's experience of co-management, and the creation of an Inuvialuit Council of Elders to act as final arbiter in disputes between the two bodies.¹²

3.3.2.2 Mandate, Objectives, Activities, Results

Our review of performance to date supports the consensus in the interviews that the Game Council is fulfilling its role and meeting its responsibilities as defined by the IFA. This finding is central to our overall conclusion that the wildlife management and environmental provisions of the IFA are being implemented successfully because the Council is the most important Inuvialuit organization for these provisions.

The six Hunters and Trappers Committees are the essential building blocks supporting the implementation of the renewable resource provisions of the Agreement. The Hunters and Trappers Committees are the community-based link for the implementation of the IFA. These Committees provide the key Inuvialuit members for the region-wide IFA bodies related to environmental and wildlife management – the Inuvialuit Game Council in particular.

Interviews conducted in the course of this evaluation along with file and document reviews indicate, however, that although the Hunters and Trappers Committees have been generally successful in meeting their obligations under the IFA, this success is built on a precarious base. The risk of failure will be high if pressures continue to grow on these Committees. There are four matters that, in our opinion, should be addressed if serious problems are to be avoided in the future: the Council's independence, the workload of Council members, remuneration and

¹² Robinson and Binder, op cit.

can inform the development of these policies and procedures.

We recommend that:

13. *a concise guide on office procedures setting out the responsibilities and accountability of staff be developed immediately and be submitted to the Joint Secretariat Board for formal approval. The guide should be appropriate for a small, results-oriented staff working in a collegial setting. The policies and procedures should permit considerable flexibility in day-to-day operations but the parameters and accountability system must be clearly defined.*

Training and Education

During the interviews we identified a need to deal more systematically with Joint Secretariat staff requirements for upgrading and expanding skills in areas ranging from front office management to providing support during public reviews to operation of the geographic information system (GIS). A program could be designed to help bring more Inuvialuit into key positions in the Joint Secretariat.

We recommend that:

14. *the Joint Secretariat enhance programs for upgrading and expanding the skills of Joint Secretariat staff in all areas ranging from front office management to the operation of the GIS, and enhance information transfer and training programs in the ISR communities to enable the Inuvialuit to participate more fully in IFA implementation. These efforts should be carried out with and through the activities of the Joint Bodies whenever and wherever appropriate.*

3.3 The Two Parties to the Agreement: The Inuvialuit and Government

3.3.1 The Inuvialuit: Description

3.3.1.1 Inuvialuit Game Council

The Inuvialuit Game Council represents the collective Inuvialuit interests in wildlife (IFA §14(74)). It has been in existence since 1979. As noted above, it is one of the two major Inuvialuit organizations that implement the IFA (the other being the Inuvialuit Regional Corporation). The Council is made up of representatives of the six Hunters and Trappers Committees plus a chairman. The Council reviews wildlife research proposals, helps set funding priorities, makes submissions to review boards and others on wildlife, and oversees the development of management plans and legislation including matters related to the overlap with adjacent settlement regions. Its administrative and operational costs are provided by the Government of the Northwest Territories.

3.3.1.2 Hunters and Trappers Committees

A Hunters and Trappers Committee is based in each of the six communities in the Settlement Region to provide advice to the Inuvialuit Game Council and the Environmental Impact Screening Committee on issues of local concern (IFA §14(76)). These six committees also sub-allocate harvesting quotas, collect harvest data, pass hunting bylaws, support studies and are active in the preparation of the Community Conservation Plans that will form the basis for the Wildlife Conservation and Management Plan for the Western Arctic Region. These Committees were established as societies in 1987. They are funded by the Government of the Northwest Territories.

We recommend that:

9. *The Joint Secretariat by-laws be revised to reflect its primary purpose as a service organisation to the Joint Bodies.*

Board of Directors

At present, the Board of the Joint Secretariat is constituted of the chairmen of each of the WMAC(NWT), FJMC, EISC, EIRB and the Inuvialuit Game Council. Given the recommendations made elsewhere in this report for a greater role by the Joint Secretariat in the handling of IFA funding, the responsibilities of the Board for allocating funds among the joint bodies and the means of maintaining financial accountability should be addressed as a priority (see chapter 4). These matters will require a revision to the by-laws of the Joint Secretariat. We recommend that:

10. *The by-laws of the Joint Secretariat be revised to clarify and strengthen the structure and function of the Board of Directors to increase its accountability.*

Staff

The Secretariat's staff job descriptions need to be revised to reflect more accurately the emerging nature of the responsibilities of both the professional and support staff. Of particular importance is the definition of the responsibilities of the Executive Director and the individual responsible for financial management (now the office manager). The current description of the Executive Director's position, for example, is entirely administrative. It is silent on the professional and technical expertise required to support execution of the environmental provisions of the IFA and to meet the objectives set out in the articles of incorporation of the Joint Secretariat itself. Similarly, the roles of the Joint Secretariat's other administrative and professional staff need to be clarified. The problem of "dual subordination" of the resource persons serving the five joint bodies to both the Executive Director and the Chairs of the joint bodies for example has been problematic in the past and needs to be addressed.

We recommend that:

11. *the role and duties of the Joint Secretariat's Executive Director be defined more clearly and to correspond with the redefined mandate of the Joint Secretariat.*
12. *the Secretariat's staff job descriptions be revised to reflect more accurately the emerging nature of the responsibilities of both the professional and support staff. Of particular importance is the definition of the responsibilities of the Executive Director and the individual responsible for financial management (now the Office Manager).*

In this redefinition of jobs and reporting functions, a place for a chief financial officer should be considered to strengthen the core role of the Secretariat and, as appropriate, to cover the added responsibilities inherent in the more direct block transfer and management of funds, should this occur. If, to meet Treasury Board rules, this officer needs to be a direct employee of the government, the appropriate administrative arrangements will have to be made for the position to be located within the Joint Secretariat in Inuvik.

Office Policies and Procedures

We found that the Joint Secretariat's internal office policies and procedures are out of date or exist only in draft form. We agree with the interviewees who indicated that these policies and procedures need to be revised and formally applied if the circumstances that have led to some of the office staff turn over are to be avoided in the future. The experience of the last six years

At the same time, there have been difficulties, misunderstandings and complaints from within and outside the Joint Secretariat. Many are characteristic of newly formed coordinating organizations. Some are peculiar to the pioneering nature of aboriginal claims implementation – on all sides there has been a heavy reliance on learning-by-doing. In our opinion, continued success depends on resolving some important internal matters to permit the more expeditious delivery of programs and handling of funds. These revisions are especially important if our recommendation for the post 1984 block funding for the IFA wildlife and environment bodies (see section 4.4.2 below) is accepted.

The interviews conducted during this evaluation also reveal that many government officials and the chair of one of the Joint Bodies perceive the Joint Secretariat to be representing unevenly the interests of both parties to the Agreement. The Joint Secretariat is more than an administrator and facilitator. The Joint Secretariat also has a major role in providing technical resource support – something that is explicitly acknowledged as an objective in its 1986 articles of incorporation under the *Northwest Territories Societies Act*. This role requires the use of knowledge in the development of expert opinion, something that is unavoidably value-laden. In the case of the Joint Secretariat, these values are underlain by the three Principles of the IFA – principles that quite purposely advocate Inuvialuit interests. So we conclude that the perception that the Secretariat promotes these interests is not only accurate but also legitimate.

Under its current mandate, the Joint Secretariat provides administrative and technical support to four of the five joint government/Inuvialuit bodies and to the Inuvialuit Game Council. We were told repeatedly by officials of all three governments concerned, and we agree, that this situation is causing confusion in the workings of the Secretariat, in services expected from its Executive Director, and in the minds of the public and private sector clients of both organizations. In practice, it is also causing the mandate, role and capability of the Inuvialuit Game Council to be diminished from that which is set out in the IFA, by making it appear as but another co-management body as opposed to the organization representing the collective environmental and wildlife interests of one of the two parties to the IFA.

The confusion arises because, like its sister organization (the Inuvialuit Regional Corporation) on the economic development side of the IFA, the Inuvialuit Game Council is an exclusively Inuvialuit entity. It is unlike the joint government/Inuvialuit bodies also served by the Joint Secretariat. While it makes some sense from an efficiency point of view, especially in the north, to have one agency provide common services, it confuses obligations and, at times, functions when the bodies served are fundamentally different. The difficulties are highlighted when it comes to the policy-oriented advice offered to the Inuvialuit Game Council by the Executive Director of the Joint Secretariat. What to date have been minor irritants arising from this confusion could well worsen with time or with an increase in development pressures. We were told that significant problems are already beginning to develop: some of these relate to the management of time, where extended commitments to the business of the Game Council has prevented the Executive Director in the past from supervising the work of the Joint Secretariat staff. We conclude that the Executive Director and the Secretariat's staff are being placed increasingly in untenable positions as a result.

One way to resolve this situation would be to change the mandate of the Joint Secretariat so that it provides services only to the joint government/Inuvialuit bodies. A more suitable means needs to be found to provide professional support and expertise to the Inuvialuit Game Council (see below); for its part, the role of the Joint Secretariat's Executive Director vis-à-vis the Game Council needs to be clarified.

Northwest Territories Secretariat

In 1991, the GNWT created a new position in the Department of Intergovernmental and Aboriginal Affairs whose responsibilities include the coordination of the implementation of the IFA at the territorial level.

3.2.2 Assessment

There is wide variation in the activity level of the different coordination and secretariat bodies, the Joint Secretariat and WACIS having been the most active.

We have not assessed the performance of either of the Yukon secretariats: both consist of part-time positions which have been unstaffed for part of the period covered by this evaluation. The WMAC(NS) acknowledges that the lack of a full-time resource person who could guarantee a timely response on all issues has created difficulties. The frequent turnover of staff in the Yukon Secretariat has limited the development of a close working relationship between it and the Council's secretariat.

Neither have we assessed the performance of the GNWT Claims Implementation Secretariat whose establishment is too new to comment on. It, too, consists of a single professional position which includes responsibilities outside the IFA. Because the costs of this position attributable to the IFA are not recoverable from the federal government (they are not included in the contribution agreement under which the federal government funds the GNWT's IFA-related obligations), other funded duties often have prior claim on this individual's time.

3.2.2.1 Western Arctic Claims Implementation Secretariat

As was discussed above, WACIS has a central role to play in promoting the resolution of issues that emerge in the implementation of the IFA. However, we found that its ability to act as a broker has been weakened by the unhappy experience of all participants related to funding, a fact which many of them acknowledge openly. Most interviewees concerned with the issue, government officials and representatives of the Joint Bodies alike, expressed considerable dissatisfaction with the Secretariat's perceived controlling position on Treasury Board submissions.

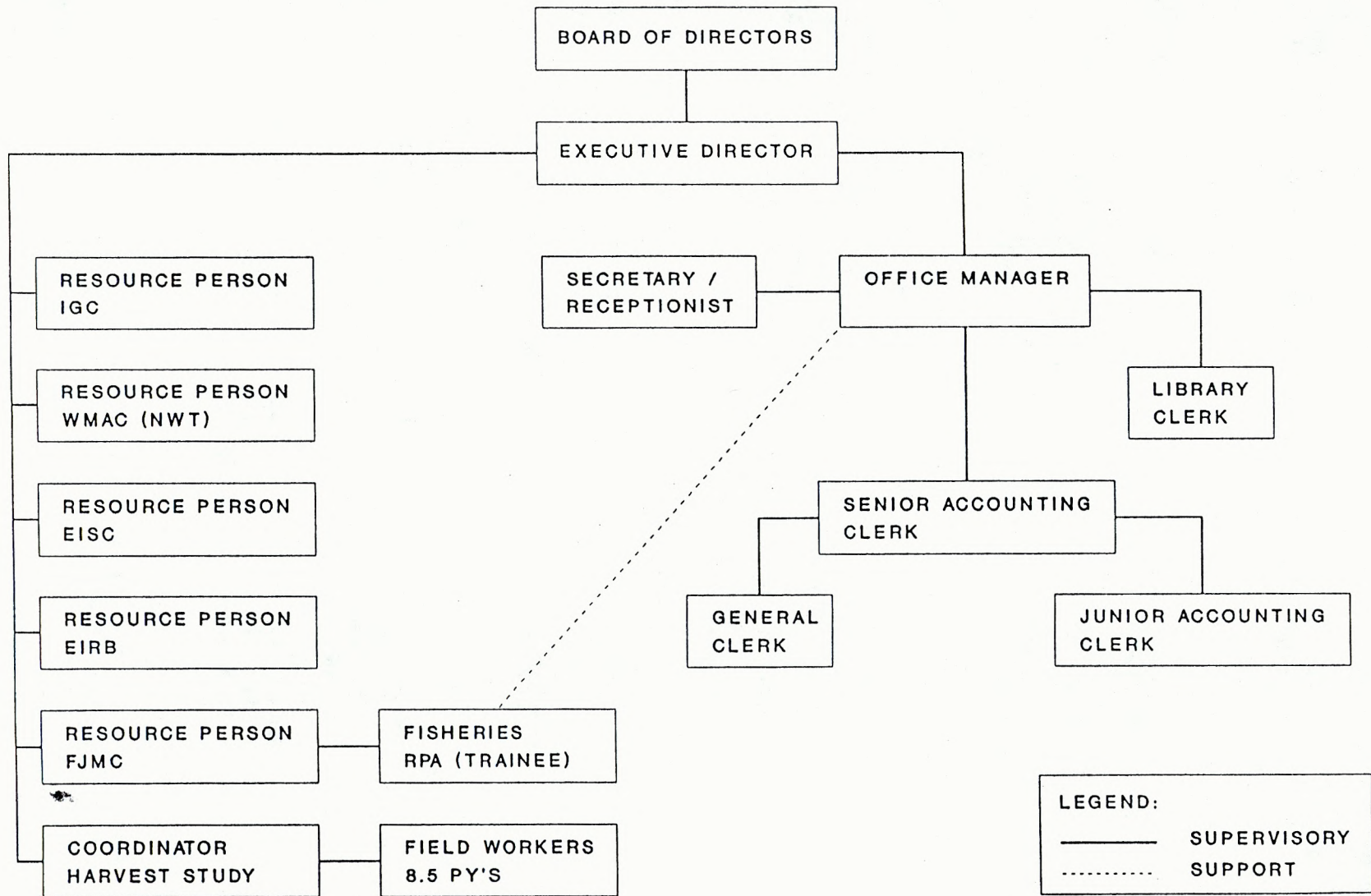
We believe that (i) the location of WACIS in Ottawa, far from the Settlement Region where most of the other IFA bodies operate, and (ii) the incomplete grasp by many northerners of the nature of WACIS's staff function within the federal government have also contributed to poor communications to such an extent that WACIS has become a lightning rod for most real and perceived government deficiencies related to bureaucratic inertia, ignorance of the IFA provisions and cumbersome funding processes.

In our opinion, personality conflicts, mutual distrust, and divergent interpretations of the same facts have severely coloured the perceptions of some interviewees and make an objective assessment of WACIS's performance extremely difficult.

3.2.2.2 The Joint Secretariat

Those interviewed, particularly members of the various Joint Bodies, the Inuvialuit Game Council and the Hunters and Trappers Committees, are almost unanimous in the view that the Joint Secretariat provides information and services in a thorough and timely manner. The file review confirms this view.

JOINT SECRETARIAT



Source: Joint Secretariat, Annual Report

Also established were two secretariats -- the Joint Secretariat and the WMAC(NS) Secretariat -- to support the work of the Joint Bodies, and three coordination offices to coordinate among and within government and between government and the Joint Bodies. These organizations are described and analysed below.

3.2.1 Description

Joint Secretariat

The Joint Secretariat was established in 1986 by agreement among the Inuvialuit, the federal government and the government of the Northwest Territories. The Secretariat is constituted under the Territorial Societies Ordinance to provide administrative and technical support services to the WMAC(NWT), FJMC, EISC, EIRB and to the Inuvialuit Game Council. Headed by an Executive Director and under the direction of a Board of Directors consisting of the chairpersons of the various bodies it serves, the Secretariat administers implementation funding for the Renewable Resources Committees. The staff serve each of the constituent organizations and provide a focus for all information and logistics for the related activities. On occasion, the Secretariat also provides logistics support for the WMAC(NS). In the fiscal year ending in March 1992, the Joint Secretariat administered expenditures of \$2,110,098. These expenditures include the expenditures of the four Joint Bodies located in the Northwest Territories, the Inuvialuit Game Council, the Harvest Study and various administrative activities.

Since it was formed by the parties in 1986, the Joint Secretariat has established a fully functioning office in Inuvik and developed a coordinated support structure for its constituent organizations. It has also assisted the Hunters and Trappers Committees and provided an essential liaison role for governments, the public, the private sector and other aboriginal groups in dealings related to the wildlife and environmental provisions of the IFA. The staff of the Joint Secretariat has had to cover local, regional, national and international issues. The Secretariat's staff strength in the fiscal year ending in March 1992 was 22.5, including eight full-time and one part-time field workers in the Inuvialuit communities (see organisation chart next page).

Wildlife Management Advisory Committee (North Slope) Secretariat

The Yukon government is responsible for supporting WMAC(NS)'s activities. This secretariat consists of a part time assistant to the Council and is located in Whitehorse.

Western Arctic (Inuvialuit) Claim Implementation Secretariat (WACIS)

WACIS was established within the Department of Indian and Northern Affairs in 1986 to coordinate the federal government's activities pursuant to the IFA. The secretariat coordinates: the allocation of funding provided by Canada for implementing the Settlement (including administration of contribution agreements with the territorial governments and the Arbitration Board); the federal government's responses to outstanding problems or issues; the appointment of Canada members to IFA boards; and the federal position on proposed amendments to the IFA. It is responsible for monitoring the effectiveness of government implementation activities and for preparing the Annual Review on implementation of the IFA. It is also the main liaison with the Inuvialuit, territorial governments and federal government departments on IFA implementation issues. WACIS has two full-time employees.

Yukon Secretariat

The Yukon Secretariat, which is located within the Department of Renewable Resources of the Yukon Government, is responsible for coordinating implementation of the IFA in the Yukon. It consists of a part-time position.

This confusion is not exclusive to the IFA joint bodies. It has emerged in the past in the North with respect to appointments to the quasi-judicial territorial Water Boards. As with the IFA bodies, the involvement of public servants with technical expertise has proven to be invaluable. In our opinion, it should not be curtailed.

We recommend that:

7. *the letters appointing government officials to serve on the Joint Bodies and the operating procedures of these bodies spell out clearly the conditions of members' service.*

3.1.2.5 Workload of Chairmen

A chairman of one of the Joint Bodies argued that his workload and that of the other chairs is greater than can reasonably be handled in the present circumstances. He suggested that the chairs should have more clearly defined job descriptions either to limit their workload, or to recognise explicitly the requirements of the job, including corresponding remuneration. A clear definition of what is expected from the chairs will be required if some of the Joint Bodies are to be merged.

3.1.2.6 Systematic Assessment of Performance

An important point raised in the interviews was that there does not appear to be a systematic means for assessing the performance and effectiveness of each of the five joint bodies on a continuing basis. The ability to conduct such assessments hinges on each body having defined its objectives and activities clearly for given periods of time, something which most if not all the joint bodies are starting to do. Although the triennial submissions for funding made to Treasury Board (see Chapter 4) contain similar information, they are not written for this purpose and represent a poor substitute for evaluation purposes.

In a similar vein, a review of the evidence that was available to us implies that there is no systematic procedure to appraise the performance of each of the members of the Joint Bodies, the Inuvialuit in particular, who, according to some, are not well-served by a general reluctance to criticise them.

We recommend that:

8. *the Board of the Joint Secretariat require each joint body to prepare an annual plan of work and that at the end of each year, the Inuvialuit Game Council and the Government of Canada, with the participation of both territorial governments conduct a review of each bodies' performance against its plan. This review should be accompanied by a performance appraisal of each member of the joint bodies.*

3.2 Secretariat and Coordination Functions

The number of organizations involved in implementing the IFA made it necessary over time to establish various secretariats to support and coordinate activities. None of these bodies is prescribed in the IFA itself.

The first to be established, in 1986, was the Implementation Coordinating Committee. Composed of designees of the Inuvialuit Regional Corporation and the Minister of IAND, its purpose was to facilitate cooperation, consultation and joint planning of implementation. This Committee has been inactive for several years and was not examined during this evaluation.

the fishery on the North Slope has caused them to negotiate a letter of understanding. There is nothing in the mandate of the Fisheries Joint Management Committee that could not be dealt with if it were part of one joint body responsible for renewable resources. The early stages of implementation have necessitated more intense fisheries-related work simply to address what the Inuvialuit considered to be a history of neglect within their Settlement Region. But as time passes and more of the basic and priority work is completed, we believe the need to maintain a separate body for fisheries matters is likely to diminish.

Experience with implementation does not make it obvious that opening a discussion on formal amendments to the IFA to streamline its environment and wildlife structures would be fruitful for either party. With the Joint Secretariat now in place, there may be beneficial changes in function that could be achieved by mutually acceptable administrative arrangements (e.g., cross membership) rather than by amendment of mandates in the IFA.

We recommend therefore that:

6. *consideration be given to bringing the operations of the WMACs and FJMC closer together in the short-term through cross-appointment of members. The opportunity to consolidate these bodies formally through amendment of the IFA should be examined over the longer term.*

3.1.2.4 Appointments to the Joint Bodies

Regardless of whether the structures and functions of the Joint Bodies are ultimately changed, the appointment of members to the two WMACs and to the FJMC needs to be addressed. This issue does not concern EISC and EIRB because members appointed to these bodies do not represent the party which appointed them.

The IFA does not stipulate whether the members of the WMACs and FJMC serve in their personal capacity or as representatives of the organizations for which they work or through which they have been appointed. The members' letters of appointment examined during the course of this evaluation do not clarify the matter. During interviews, current and past members of the joint bodies -- in particular government officials -- indicated some confusion about their status and how they are to reconcile their professional views with those of their employers or appointing agencies. In one case, a government employee was subjected to career-threatening pressures because a decision of the joint body of which he was a member was at odds with the views of his senior managers. In our opinion, unless corrective steps are taken, this situation could become more common as the joint bodies become better established and the pace of economic development in the Settlement Region picks up.

While it is generally agreed that the members must maintain their professional autonomy if these bodies are to function properly, it is also acknowledged that there are complicating factors that must be addressed. For example, these three bodies are considered to be co-management instruments. This requires some kind of "official" representation of both parties on the committees. The government officials most qualified to serve on these committees tend to be technical experts living in the region, because of their accessibility and their personal knowledge of the issues at hand. Being located far from Ottawa, these officials, however, may not be well-briefed on broader government policy interests or the concerns of other departments. Yet, their senior managers in Ottawa, Yellowknife or Whitehorse may still expect them to protect their governments' interests: a senior government official asked whether these representatives are being forced to play two incompatible roles as technical expert and policy advisor. For their part, the Inuvialuit rightly expect that assent to a recommendation by a technical expert who is also a public servant will indicate eventual government support.

EIRB; 2) combine the operations of the two WMACs; and 3) combine the operations of the two WMACs and the FJMC.

Option 1: combine the operations of the EISC and the EIRB

An issue which came up during the course of this evaluation is whether the Review Board should have a standing role (i.e., permanent responsibilities) or an *ad hoc* one. The answer has obvious resource implications. The former EIRB chairman, for example, stressed the need for "ongoing professional training" for EIRB members in the practice of environmental assessment and in technical questions likely to come before the Board. There is a trade-off between the cost of maintaining the high level of readiness needed to process an application expeditiously and the potential erosion in effectiveness and efficiency resulting from allowing in-house capabilities to atrophy during a time of little activity. There is consensus that the level of development activity in the western Arctic will remain low for the rest of this decade.

We believe that maintaining the necessary level of preparedness to conduct hearings on complex matters ought to be placed in the context of other calls on the resources to implement the IFA. As the mandates of the EISC and the EIRB are complementary and could be functionally combined, particularly in light of the fact that there is not expected to be significant large-scale development activity occurring in the near future, we recommend that:

5. *until such time as development increases dramatically in the ISR, the operations of the EISC and the EIRB be brought closer together through cross-appointment of members as provided for in the IFA. During this period, the experience of other processes should be monitored and the implications of formal consolidation examined.*

Option 2: combine the operations of the two WMACs

The WMAC(NS)'s ongoing requirements for wildlife management, although geographically in the Yukon, are identical to those of WMAC(NWT).¹¹ The work of the two WMACs thus overlaps whenever they address an issue which is not specific to their region.

An argument in favour of collapsing the 2 WMACs is to parallel the structures negotiated in neighbouring claims. However it was also noted that there is little practical experience upon which to judge the effectiveness of the consolidated structures established by other claim agreements.

Option 3: combine the operations of the two WMACs and the FJMC

The mandate of the Fisheries Joint Management Committee is derived from the federal split in jurisdiction between the Department of Fisheries and Oceans and other federal departments and the territorial governments on matters concerned with environment (including water and other habitat) and wildlife. Department of Fisheries and Oceans officials told us that they believed that a division of responsibility which parallels government organization is necessary to meet the cooperative management objectives of the IFA. We note, however, that the Department will be working through consolidated wildlife management boards in all three adjacent claim settlement areas.

In our opinion, the management split between aquatic and terrestrial life makes little ecological sense. Indeed, duplication between WMAC(NS) and the FJMC concerning the management of

¹¹ One should note, however, that the IFA gives WMAC(NWT) a longer list of responsibilities than WMAC(NS).

The joint environmental and wildlife management regime established under the IFA is more complex than that in two of the adjacent claim agreements (TFN, Gwich'in) where one consolidated wildlife management board (instead of three) and one impact review process (instead of two) have been created. The Inuvialuit did not initially advocate this structure in negotiating the IFA. Rather, large parts were imposed by preordained government jurisdictional considerations: the Department of Fisheries, for example, refused to subsume fisheries issues under wildlife management. For its part, the Yukon Government insisted on the establishment of separate wildlife councils, one for each territory.

A senior Inuvialuk involved in the negotiation of the claim told us that "at the beginning of the claim process, the Inuvialuit wanted to do something clear-cut. Because the system doesn't trust aboriginals, a complex approach to having all these bodies was taken. This makes it difficult for aboriginals to get something instituted." This individual believes that many government officials had thought at the time that the Inuvialuit were receiving "too much". In this person's view, the attitude of these officials had made the IFA's implementation more difficult.

The institutional complexity of the IFA's environmental and wildlife management regime does not appear to be a major issue for most participants, except for the Treasury Board Secretariat which has expressed concern about cost-effectiveness. However, particularly in light of the simpler structures in subsequently negotiated claims, many of the people we interviewed recognize that there may be more efficient ways to meet the wildlife and environmental needs inherent in the IFA. At the same time, many of them are reticent to exchange a model which appears to work with one which is largely untested.

Thus, the opinions of interviewees on whether the Joint Bodies could, at some time in the future, be usefully combined is mixed. Some argue, for example, that the division of responsibilities among several bodies ensures more focused response to issues and needs. On the other hand, several people maintain that the IFA's division of responsibilities into the several current structures is artificial and costly. They also note that the current arrangement exacerbates the widely recognised problem of there being too few Inuvialuit willing to serve or capable of serving on all of the IFA bodies.

There are financial implications to the number of joint bodies that have been established to manage renewable resources. Each committee, for example, has its own coordination costs and expenses (honoraria for members, travel, etc.). These administrative costs, although not great in terms of total expenditures, reduce the amount of money available for other purposes. This is an important consideration given that implementation funding is unlikely to increase.

The arguments for re-examining the environmental and wildlife management structures established under the IFA are not based purely on financial considerations or the existence of apparently-simpler models elsewhere. They are also rooted in real concerns about the impacts of administrative complexity on efficiency and effectiveness. Today, two levels of government and the IFA institutions share responsibilities over environmental and wildlife management. If the recommendations of the NWT Western Constitutional Commission to introduce district-levels of government with potentially both legislative and executive powers are accepted, the administrative face of the Beaufort Sea Region will become even more complex. Complexity often leads to uncertainty; uncertainty reduces management effectiveness and discourages development. One interviewee was prepared to argue that the federal government had traded off the legal uncertainty which clouded land title in the Inuvialuit Settlement Region when it signed the IFA for a different kind of uncertainty over managerial and administrative arrangements.

In our opinion, there is potential for streamlining by merging the operations of various Joint Bodies. We put forward below three possible options: 1) combine the operations of EISC and

The FJMC has required an additional injection of funds for every fiscal year since 1987. There is widespread agreement that the FJMC is underfunded to discharge its mandated responsibilities, although opinions diverge on the severity of this problem.

The Wildlife Management Advisory Council (Northwest Territories)

Interviewees agree that WMAC(NWT) is meeting its on-going responsibilities of establishing harvesting quotas and providing advice on wildlife management. We also found that this advice is generally accepted. In 1988, the Council released *The Inuvialuit Renewable Resource Conservation and Management Plan*, which it developed collaboratively with the Fisheries Joint Management Committee. Reflecting both the IFA provisions and the recommendations of the 1984 Task Force on Northern Conservation, the Plan lists as one of its objectives the preparation of conservation plans for each of the six Inuvialuit communities. Three such plans had been completed at the end of March 1992. Management plans have also been prepared for several wildlife populations. The Council's relationship with its main client, the GNWT Department of Renewable Resources, is a good one, according to both parties.

The Wildlife Management Advisory Council (North Slope)

Under the IFA, the North Slope Council has the distinct task of preparing "a wildlife conservation and management plan for the Yukon North Slope for recommendation to the appropriate authorities ..." (§12(56(b))). A draft has recently been circulated. Once this plan is submitted in final form, the Council's last exclusive mandate will have been met. The National and Territorial Parks have both been created.

The Yukon territorial officials interviewed for this evaluation expressed their satisfaction with the work of the Council but also a concern about the Council's interpretation of its mandate as indicated by the scope of the draft North Slope wildlife conservation and management plan (see section 3.1.2.1).

3.1.2.3 Overlap/Duplication: Potential for Merging Operations

The evaluation required an assessment of actual or potential overlap or duplication among the various Joint Bodies.

Land claim settlements are political agreements and are shaped accordingly. The IFA is no exception in the institutions it created. In some cases (e.g. the Fisheries Joint Management Committee and the North Slope Wildlife Management Advisory Council), institutions were established to mirror the jurisdictional organization of governments. The ecosystem is an integrated complex of life and the IFA institutions do not reflect the way that the western Arctic ecosystem actually functions¹⁰: the straight line which separates the northern Yukon from the NWT, cutting across mountains and rivers, may provide a political justification for two separate Wildlife Management Advisory Councils but it is not based on any biophysical border between the two territories at that location. *A priori*, therefore, the IFA institutions cannot be expected to exhibit the most effective or efficient way to manage the region's environment or most of its renewable resources.

¹⁰ The fact that resource management agencies are very seldom structured on the basis of ecosystem principles has been noted both internationally and domestically levels. See, for example, the report of the World Commission on Environment and Development (Brundtland Report) and the Report of the Royal Commission on the Future of the Toronto Waterfront.

Predictability

Oil industry representatives interviewed as part of this evaluation also expressed concern about the predictability of the screening and review process. Some of the government and industry officials interviewed did not believe that the operating guidelines published about the screening and review process were sufficiently clear, particularly with regard to the interaction among all environmental review processes applicable in the Settlement Region. They expressed the need for a clear "road map" that would define in sufficient detail the roles of all the parties in a screening or public review: what are the rights and obligations of the applicant, government agencies, the Joint Secretariat and Inuvialuit organizations? what requirements must the applicant meet? what is the nature of the public review process (e.g., formal vs. informal)? These interviewees suggested that further presentations to industry about the process would help alleviate industry's apprehensions.

The EISC and EIRB are already undertaking some measures to address these concerns. The EISC is developing more detailed screening procedures. Meetings of the EISC are currently open to anyone wishing to attend. However, addressing the overlap concern is problematic at present as federal environmental assessment regulations are still being drafted and experience with the application of the *Canadian Environmental Assessment Act* will take some time to develop. We recommend that:

4. *communication on the IFA screening and review process be enhanced between the EISC and developers through periodic workshops, and distribution of detailed process guidelines (detailed road map) and other information materials.*

At the same time, developers bear some onus for keeping informed and seeking advice on the screening and review process and procedures, and for making timely submissions.

The Fisheries Joint Management Committee

We found that the FJMC has developed a close working relationship with DFO, in part as a result of continuity among the principal individuals concerned. The FJMC's first chair, for example, was a DFO employee who remains actively involved in aboriginal issues on behalf of the Department. DFO officials interviewed noted that the Department values the advice it receives from the FJMC because it knows that the latter's regular consultations with the Hunters and Trappers Committees means that such advice is supported at the community level. In this regard, several northern interviewees mentioned that they appreciated the FJMC's yearly visits to each of the six Inuvialuit communities although some also noted that this practice is expensive.

Both interviews and the FJMC's annual reports show that most of its advice to the Minister of Fisheries and Oceans has been implemented. This, in our opinion, should be seen as a measure of the FJMC's success. Another possible measure of its effectiveness is that one community has placed voluntary fishing restrictions on one river to protect the fish stock.

The bowhead whale hunt has been one of the most controversial co-management issues in the ISR. In 1991, after three years' consideration, the Minister of Fisheries and Oceans issued a licence to the Aklavik HTC to harvest one bowhead whale in spite of opposition from the American government. The Inuvialuit's self-restraint (many argued that the IFA gave them the constitutional right to harvest bowhead whales for subsistence purposes without a license) and the government's eventual endorsement of the hunt were cited by several interviewees as an example of the success of the IFA wildlife management regime.

much to do with the difficulties experienced by the participants as any disagreement about the mandate of the Board.

Duplication

The creation of the Screening Committee and the Review Board has had the unintended effect of increasing the regulatory burden industry faces by adding new mechanisms to an already crowded field. The creation of the IFA environmental screening and review process has not relieved government agencies from their environmental assessment and review (EARP) obligations but rather added another administrative layer to project reviews. The evolution of these approaches over the last decade has already led to overlap. The net result has been institutional complexity and inefficiency.

A recent study done for the National Round Table on Environment and Economy and the Institute for Research on Public Policy presents the example of overlap concerning the EIRB and the National Energy Board:

Each board has a statutory requirement to review development projects. The focus of the EIRB is social and regional. The NEB has a national public interest to protect. Under the statutory regime the NEB cannot issue a certificate of public interest and convenience for a project until the EIRB has completed its review process. On the other hand, the EIRB cannot complete its review process until it gets sufficient data/information often available only from the NEB. However, the NEB takes the position that it cannot furnish such data/information to the EIRB because this would violate the NEB's role as a court of record.⁸

Over the years, industry representatives have expressed much frustration with the duplication in regulatory processes they now see in the Settlement Region. A 1991 report published by DIAND⁹ quotes an oil company official as follows:

We face the most complicated regulatory scenarios known to man. In the North Yukon alone, there are 26 regulatory committees, boards, task forces, and other groups. All this regulation is brought to bear on any proposed activity.

Duplication entails both financial and temporal costs for all parties, and increases uncertainty for investors. In our opinion, all organizations responsible for resource management in the Settlement Region, including government agencies, must be sensitive to the regulatory burden they create relative to that which exists in other areas. In particular, clarification is needed on when, or if, one set of these processes or procedures takes precedence over the other and whether "equivalency" rules or coordinating mechanisms (e.g., joint hearings) can be used to streamline project assessment.

We recommend that:

3. *negotiations should begin in the near future to develop mechanisms for ensuring there is no duplication of environmental screening and review processes with forthcoming federal legislation, territorial requirements, and processes operating in adjacent land claim areas.*

⁸ Nancy Morgan, Martin Palleson and A.R. Thompson: Environmental Impact Assessment and Competitiveness, Working Paper No. 7.

⁹ Quoted in Rodger Schwass, 1991, A Review of Northern Conservation in Canada 1984-1990, p 25.

3.1.2.2 Activities and Results

The Environmental Impact Screening Committee

In the first five years of operations, the EISC screened over 150 submissions, the vast majority within 30 days, a high standard of performance. A noteworthy exception occurred in the case of an application by Amoco which took one month to obtain all the approvals from US federal, State and native organizations it needed to store a drilling platform in Alaska while it had taken it four months to have an existing lease extended at Herschel Island for the same purpose. In our opinion, this exception does not reflect so much on the EISC as on the difficulty of coordinating the activities of IFA Joint Bodies with government institutions with similar mandates (see below).

Some representatives of the oil industry expressed concern about consistency in the application of screening; for example, similar projects such as ice roads are not all screened or may be screened differently. It was suggested that the development of an "exclusions list" for routine projects which would be exempted from screening would increase the predictability of the process at little environmental cost. We were told that one is being developed and will be available in due course.

One interviewee raised the concern that, at present, the screening process has difficulty considering the cumulative effects of development on the environment. Members of the EISC are aware of this weakness. It should be noted that the development of methods for cumulative impact assessment is a new field.

The Environmental Impact Review Board

The Review Board has held only two hearings in its history so far. The first dealt with an application by Esso Resources Canada to drill an offshore well (Isserk I-15) from an artificial island in landfast ice close to the Tuktoyaktuk peninsula. The Board recommended that the application be granted. The second hearing on a Gulf Canada Resources application to undertake a multi-well drilling program from its floating drilling platform the Kulluk in the shearzone between landfast ice and the polar pack was much more controversial, both because of the unexpected scope of the hearings and its outcome (the Board turned the application down)⁶. Some government officials interviewed for this evaluation have argued that if approval for an exploratory well could be denied after more than 90 offshore wells had been drilled in the Beaufort Sea, industry cannot know what "the rules of the game" are any more. Many industry officials agree, as do some of the Inuvialuit interviewed during this evaluation.

In fact, the rules changed in an important way when the IFA was signed. The IFA introduces a new Board with a legislated mandate that demands new approaches to assessment. The IFA imposes a higher standard for environmental assessment in the Settlement Region than the federal Environmental Assessment Review Process, at least as it was interpreted in 1984. It is important also to remember the differences between the two projects the Board received and the background against which the hearings took place.⁷ This background probably has at least as

⁶ The Board rejected the Gulf application because of "a startling lack of preparedness evident on the part of government and on the part of Gulf to deal effectively with a major oil well blowout in the Beaufort Sea during the open water season" and because it was unable to determine Gulf's potential liability in the event of a worst case blowout.

⁷ The Kulluk hearings were held shortly after the Exxon Valdez tanker spill and the release of a DIAND paper questioning the application of the government's policy about same-season well-relief capacity.

- the settlement of neighbouring claims with the Gwitch'in, the Tungavik Federation of Nunavut and the Yukon First Nations will force some of the Joint Bodies to become involved in allocation decisions concerning joint resources;
- the federal government's approach to co-management institutions has changed since the IFA was signed, as is evident in more recently negotiated land claims agreements; and
- the understanding of environmental management has changed with fewer experts arguing in favour of separating the environmental screening and review functions, for example.

The definition of mandates affects operations and therefore has financial implications: an expansive definition is likely to imply a higher level of activity, more responsibilities, and therefore a bigger budget than a restrictive definition. It is important therefore that the parties clearly articulate and then resolve their differences concerning the mandates of the Joint Bodies in the near future and not let the issue sit until major development is upon them. In our view, the pressures from affected third parties (e.g. industry or those with overlapping claims) have the potential for quickly transforming the current flexible approach into a brittle confrontation.

In practical terms, the provisions of the IFA beg interpretation in some instances and the realities of environmental and wildlife management demand flexibility if the principles of the Agreement are to be achieved. While resource constraints impose limits to the expansion of mandates, we believe that the necessary flexibility can be accommodated and managed to the satisfaction of the participants through such means as letters of agreement, the development of a business plan, and other means. We recommend, as a general principle, that:

1. *the parties periodically review the mandates of the joint bodies in terms of the needs for environmental management, within the spirit of the IFA.*

The Environmental Impact Review Board

The Board's scope in conducting offshore hearings is restricted under §11(2) of the IFA to issues related to wildlife compensation. The Inuvialuit Game Council has argued during the course of this evaluation that, in order to determine the impacts on wildlife of an industrial operation, and hence the need for and amount of compensation, it is necessary to conduct a full environmental impact assessment of the operation. In the case of an offshore drilling program, the Inuvialuit have argued that this assessment would have to include the capacity to drill a relief well "because the speed and success of this operation have a bearing on how much oil may be released into the marine environment, which, in turn, has a bearing on possible mortality rates of harvestable animals, hence wildlife compensation".⁵ Both industry and government officials have questioned the Review Board's powers to conduct a hearing of such scope in the offshore. Although there are arguments to be made on both sides, the issue of the scope of the Board's offshore jurisdiction remains unresolved.

We recommend that:

2. *the parties take steps to reach agreement on the EIRB's offshore jurisdiction.*

⁵ Summary of comments from the Inuvialuit Game Council, January 1993.

Differences have emerged between the three governments and the Inuvialuit about the mandates of the Joint Bodies, in part because the IFA is a complex document with many inter-related chapters, and also because, in some cases, it does not spell out in detail how the powers of the bodies it creates are to be exercised.

What became evident in our discussions with interviewees is that participants are taking two different perspectives in judging how well the IFA Joint Bodies exercise their mandates: (i) on their responsiveness to the wildlife and environmental needs on the ground; and (ii) on the conformity of their operations with the IFA itself. We observed that, in general, northern residents, including both government officials and Inuvialuit, tend to put greater weight on the former while federal officials in Ottawa in particular tend to focus more on the latter.

The IFA wildlife and environment bodies have been more active than federal officials expected. In the process, some of these officials consider that at least two Joint Bodies are broadening their mandates beyond what the government had anticipated in the Agreement. Ambiguity in the wording of the relevant provisions of the IFA adds to the problem (as was previously found to be the case for settlement in northern Quebec). For example, the debate about the scope of, and resources required for implementing the North Slope wildlife conservation and management plan was in part one of whether or not the Wildlife Management Advisory Council (North Slope) has exceeded its mandate. Differences about the ongoing operation of the Environmental Impact Review Board and the scope of its hearings offshore, begin with differences in interpretation of the Board's mandate. Even the skepticism expressed by several federal officials concerning the rationale for international travel by members of the Joint Bodies and the staff of the Joint Secretariat ends up, at some point, as a difference in interpretation of mandate.

In fact, all three governments have unwittingly contributed to the Joint Bodies' expansion of their mandates by relying on them as a "single window" when consulting the Inuvialuit: the Yukon government, for example, has involved the WMAC(NS) in the review of the Hershel Island Territorial Park management plan and the planning of the North Slope Annual Conference although neither responsibility is explicitly recognised in the IFA.

There is one body, the Fisheries Joint Management Committee, which has broadened its mandate to encompass the protection of fish habitat, with the concurrence of both parties.

The differences that have arisen about the mandates of the IFA renewable resource bodies raise a basic implementation question: are the mandates fixed in time or should they be allowed to evolve? The 1982 review of the implementation of the James Bay and Northern Quebec Agreement indicated that the claims settlement provisions need to evolve to fit emerging circumstances (see Section 3.3.4.1). The same point was made in 1985 in the report of the Comprehensive Claims Task Force (*ibid.*). Most, but not all of those interviewed as part of this evaluation agreed with this flexible approach. This view is encapsulated in the following statement by one of the interviewees: "While things have gone well, don't fear change. What worked in 1986 is not necessarily what will work in 1996. To keep things going well, it will be necessary to evolve".

Four arguments were put forward to support evolution:

- over six years of experience in implementing the IFA has shifted people's understanding of mandates from what was negotiated to what in practice is needed to accomplish the objectives of the IFA;

development is to take place. In the fiscal year ending in March 1992, the Board spent \$96,644 exclusive of the administrative support services provided by the Joint Secretariat.

The Fisheries Joint Management Committee

The Fisheries Joint Management Committee assists the Minister of Fisheries and Oceans in the management of fisheries and advises on fisheries in the Settlement Region (IFA§14(61 to 72)). In so doing it works in consultation with the Hunters and Trappers Committees, the Inuvialuit Game Council and federal and territorial government agencies. The Committee consists of a chairperson and four members, two appointed by the Inuvialuit Game Council and two by the federal government. The chairperson is appointed by the members. In the fiscal year ending in March 1992, the Committee spent \$298,740 exclusive of the administrative support services provided by the Joint Secretariat.

The Wildlife Management Advisory Council (Northwest Territories)

The Wildlife Management Advisory Council (NWT) provides advice to the federal and NWT ministers responsible for wildlife and to the Environmental Impact Screening Committee and Review Board and others pertaining to all of the Settlement Region except for the Northern Yukon (IFA§14(60) and §14(36,37), §14(74)(b & d)). It prepares wildlife conservation and management plans for the region and recommends wildlife harvesting quotas. The Council consists of a chairperson, three Inuvialuit, a designee of the Minister of the Environment and two designees of the Government of the Northwest Territories. In the fiscal year ending in March 1992, the Council spent \$131,535 exclusive of the administrative support services provided by the Joint Secretariat.

The Wildlife Management Advisory Council (North Slope)

The Wildlife Management Advisory Council (North Slope) facilitates wildlife and habitat research and conservation programs on the Yukon North Slope (IFA§12(56) and §12(2&3), §14(3), §14(74)(b&d)). It also intervenes in hearings, reviews plans and legislation and provides advice related to this region of the Yukon. It has recently prepared a draft wildlife conservation and management plan in consultation with user groups, co-management organizations and governments. The Council consists of a chairperson, two Inuvialuit, a designee of the Yukon government, and a designee of the Minister of the Environment. In the fiscal year ending in March 1992, the Committee spent \$155,100.

3.1.2 Assessment

The five Joint Bodies created through the IFA have a short history. They have been operating for a little more than six years. During this time, they have had to be established, orient their members, develop operating procedures, work out financing arrangements and budgets, liaise with a variety of government and private sector institutions, as well as fulfill the objectives for which they were established. Notwithstanding some growing pains and the emergence of specific issues which will be discussed below, the level of satisfaction expressed during the interviews with their performance is remarkably high.

3.1.2.1 Mandates

The mandates for each of the Joint Bodies are stated in the IFA. The interviews we conducted and our review of the documents available to us show that the Joint Bodies are generally fulfilling the mandates set out in the IFA. Each Joint Body publishes an annual report describing its activities for the previous year (e.g., number of meetings, reports or studies commissioned, recommendations made, etc.).

3 OPERATIONAL ASSESSMENT

Issues (3) and (4) in the terms of reference for this evaluation ask for an assessment of "the effectiveness of the structures, mechanisms and processes put in place to implement these provisions and to reconcile related disputes in accordance with the principles set out in section 1 of the Agreement"; and "an analysis of the conditions that resulted in successful or unsuccessful implementation of these provisions and resolution of disputes."

This chapter is divided into six sections. First, we provide a short description, followed by an assessment, of each of the following: (i) the Joint Bodies set up under the IFA; (ii) the secretariat functions; (iii) the Inuvialuit bodies; and (iv) governments. In the fifth section of the chapter, we note an important qualifying factor to our assessment. The last section summarizes our findings.

3.1 Joint Renewable Resource Management Bodies

3.1.1 Description

The IFA created five joint bodies to manage the environment and the renewable resources of the Settlement Region: the Environmental Impact Screening Committee, the Environmental Impact Review Board, the Fisheries Joint Management Committee, and two Wildlife Management Advisory Councils, one each for the NWT and the Yukon North Slope. As institutions of joint management, these bodies are each composed of equal numbers of government and Inuvialuit representatives, all of whom serve in a part-time capacity.

As the activities of these Bodies are described in detail in the annual reports they each publish and in the Planning Report for this evaluation, they will only be summarised below. The expenditure numbers given below for each Joint Body should be treated with caution: they include direct expenditures only and do not reflect the administrative support services provided by the Joint Secretariat. They therefore understate significantly the actual operating costs of these Bodies.

The Environmental Impact Screening Committee

The Environmental Impact Screening Committee examines all development proposals to determine whether or not they could have significant negative impact on the environment of the ISR or a potential impact on present or future wildlife harvesting (IFA §11 and §12(20-23) & §13(7-12)). Proposals deemed to have such an impact are referred to the Environmental Impact Review Board, or another appropriate body, for a public assessment. The committee meets every 6 to 8 weeks and consists of seven members - a chairperson, three Inuvialuit, and one member each designated by the federal, Northwest Territories and Yukon governments. In the fiscal year ending in March 1992, the Committee spent \$16,314 exclusive of the administrative support services provided by the Joint Secretariat.

The Environmental Impact Review Board

The Environmental Impact Review Board conducts public reviews of development projects referred to it by the Screening Committee (IFA §11 and §12(3)(d), 12(21&23)). It recommends to the authorized governmental authority whether or not the project should proceed and, if so, under what conditions. Where projects are found to affect wildlife harvesting, the Board provides an estimate of the potential liability of the developer. The Board has seven permanent members: a chairperson appointed by the federal government, with the consent of the Inuvialuit, three members appointed by the Inuvialuit and three by the federal government, including at least one member designated by the territorial government in whose jurisdiction the

sections (e.g., wildlife compensation). It also means that the participants may continue to have different expectations about the resources which should be committed to implementing the IFA, largely because they use different standards to judge the adequacy of these resources. An individual actively involved in implementation has argued, for example, that

... compared to some regions of the country, environmental and wildlife issues are being handled in an exemplary fashion in the Inuvialuit Settlement Region. On the other hand, the Inuvialuit negotiated a final agreement that had wildlife, and the use of that wildlife for both subsistence and commercial purposes as a cornerstone. The vision called for a sophisticated management regime far more intensive than that applied in much of the rest of the country. Progress towards that ideal has been naturally slow.

The resources to be committed to wildlife management and the scope of the EIRB hearings offshore are two instances where the federal government and the Inuvialuit have different standards about the optimal level of protection required, and hence, the allocation of desirable resources to these tasks.

The observations above are based on a small body of evidence: during the preparation of the planning report for this evaluation, a thorough search of files uncovered no substantial documentation concerning what the expectations had been at the time the Agreement was negotiated. Individuals who were involved in the negotiations have moved on or their memories of events almost a decade ago have dimmed: of the 80 people interviewed, less than a dozen (of whom slightly more than half were Inuvialuit) indicated that they were involved in any significant way with the IFA prior to 1984. In any event, it should be pointed out that recollections of expectations are often coloured by subsequent events and need to be interpreted accordingly.

There was also some skepticism expressed, mostly by government interviewees, about the value of measuring expectations. One official stated bluntly: "I don't care what the negotiators thought – it's what they wrote down [that counts]".

If it is difficult to determine what the expectations of the various participants were in 1984, how these have evolved and the extent to which they have been met, it is possible to define what the concerns of the parties are. Concerns often shape expectations. But while a party may change its expectations frequently in response to any number of events, it is less likely to alter the way it defines its concerns as often. The Inuvialuit and the governments involved in IFA implementation have different concerns. Because these differences colour the judgments that IFA participants make about the effectiveness of implementing the environmental and wildlife management provisions of the IFA, and the steps to be taken to remedy existing problems, it is relevant to set them out briefly below.

2.2 Differing Concerns Between the Parties

The Inuvialuit and Canada negotiated the IFA as a basis for collaboration on a variety of issues. However, this does not mean that they have bridged all differences or that their concerns now are the same. For the Inuvialuit, the Delta and Beaufort Sea are home. They therefore have little reason or desire to compromise on fundamental issues. For two of the three governments involved (YTG and federal) on the other hand, this same region is geographically, demographically and economically at the margin of their jurisdictions. They are therefore willing to engage in a greater number of trade-offs than the Inuvialuit. As an Inuvialuk put it during an interview, "the IFA is the life-blood of the Inuvialuit and with them 24 hours a day, whereas for government it's only a 9-to-5 preoccupation".

The Inuvialuit have made the protection of environmental quality and wildlife conservation central concerns. Although all three governments are committed to these issues, they also have to arbitrate among many more concerns than do the Inuvialuit. At the federal level, for example, Environment Canada has had to reconcile the Canada-wide standards it has established in its national parks policy with the demands of northern aboriginal peoples for involvement in park management. For its part, the Central and Arctic Region of the Department of Fisheries and Oceans, which is the departmental division responsible for the Inuvialuit Settlement Region, is facing more demands than it can meet⁴. At a broader level, not only are constitutional and economic issues higher on the federal government's agenda right now, but issues of environmental quality and wildlife conservation are seen in a much broader perspective than they are in the Mackenzie Delta.

The point that the Inuvialuit and the governments have different concerns may be obvious but it has important implications. It means that the participants will interpret the IFA from different perspectives and will reach different conclusions about the obligations implied by certain

⁴ See Report of the Auditor General of Canada to the House of Commons, 1991, p 321.

2 EXPECTATIONS AND INTERESTS

The first two issues identified for this evaluation are:

- 1) the extent to which, and the ways in which, expectations of the various participants regarding the implementation of the environmental and wildlife provisions of the IFA have evolved from 1984 to the present, and the congruence or divergence of these expectations;
- 2) the impact of these expectations on implementation.

These issues are addressed together below because of their strong interrelationship.

2.1 Expectations of the Participants

This evaluation attempted to gauge the extent to which the expectations held by the Parties to the Agreement and by people involved with the IFA as far back as 1984 have or have not been met. While it is not possible to draw definitive conclusions as to the fulfillment and evolution of expectations of the participants during several years of implementation, almost all of the people who were willing to comment on this subject believe that the expectations held for the environmental and wildlife aspects of the IFA have been met or are in the process of being met. Several of the interviewees mentioned that expectations for IFA implementation had focused more on the economic and social aspects of the claim than the environmental and wildlife provisions.

Three Inuvialuit interviewees, two of whom negotiated the IFA, stated that the Agreement "has gone beyond [their] expectations with the development of the joint management bodies and resulting in the signing of joint management agreements at various levels". They also noted the performance of the Environmental Impact Review Board had "more than met the Game Council's expectations".

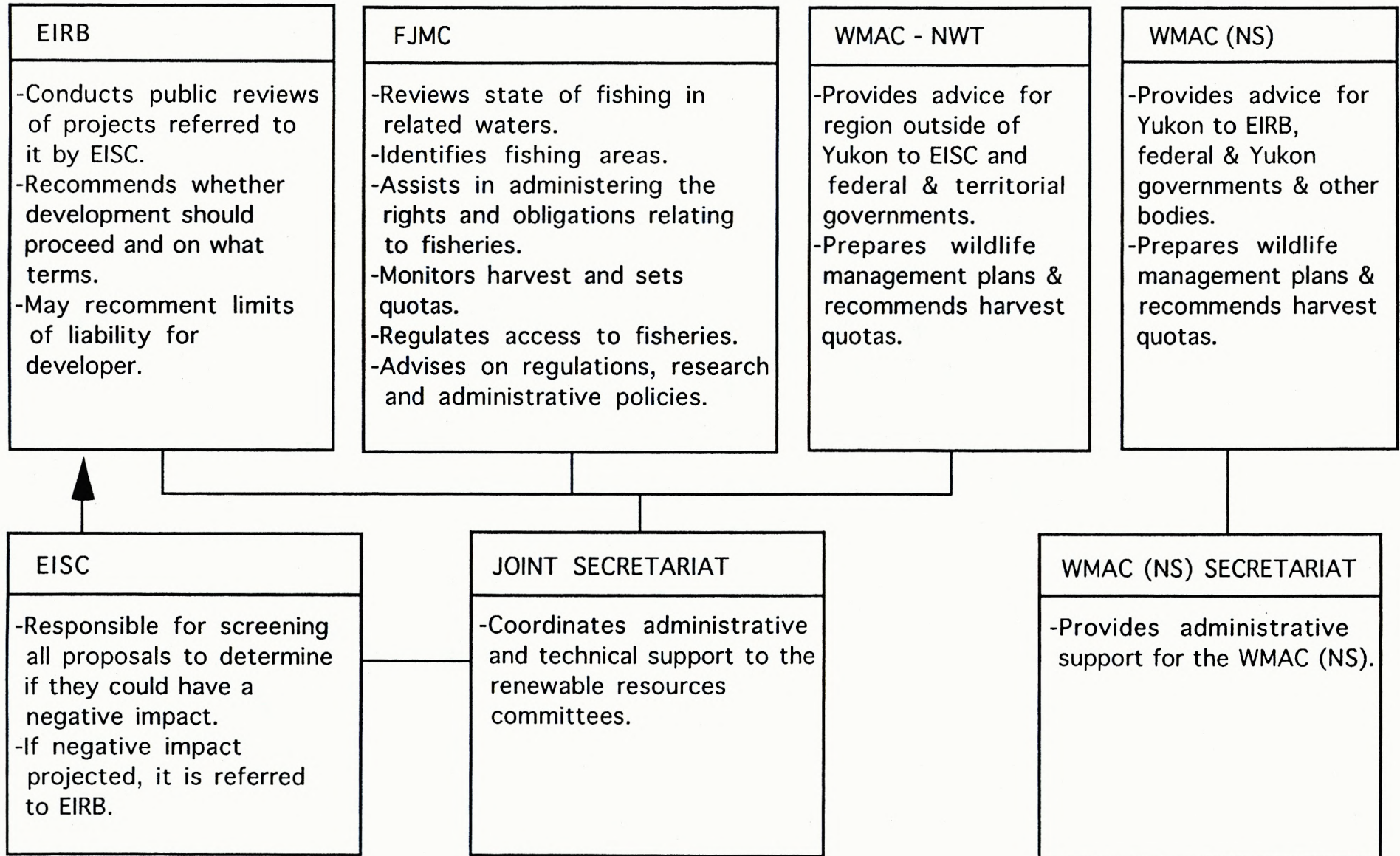
Another individual (not an Inuvialuk) actively involved in the implementation of the IFA disagrees. He stated that

it is my impression that the Inuvialuit negotiators anticipated having the ability to manage the various wildlife populations in such a manner as to protect subsistence harvests, while at the same time making available surpluses above the subsistence level for economic gain, should that option be locally acceptable. The information base that managers need for such a management system is far from being in place.

This statement raises the question of what standard should be applied to measure whether expectations have been met. There is no accepted standard for this matter. Some federal officials stated in interviews that the broadening scope of the mandate of some Joint Bodies (See Section 3.1.2.1) should be interpreted as an indication that these bodies are exceeding the expectations placed on them before their creation. This standard seems similar to the one which the Inuvialuit quoted above apply.

The only specific item of significance mentioned during interviews as having failed to meet expectations was governmental tardiness in amending existing wildlife and fisheries legislation as a consequence of the IFA.

FIGURE 3: ENVIRONMENTAL AND WILDLIFE MANAGEMENT BODIES
Main Activities



Five secretariats administer the IFA:

- 1) a Joint Secretariat in Inuvik provides administrative and technical support for the government/Inuvialuit bodies, except WMAC (NS), and the Inuvialuit Game Council. Funding for these joint bodies comes from departments of the federal and Northwest Territories governments through contribution agreements with the Joint Secretariat;
- 2) a Whitehorse-based secretariat, funded by the Yukon Government with IFA implementation monies supports the activities of the Wildlife Management Advisory Council (North Slope);
- 3) a separate Implementation Secretariat, also based in Whitehorse, and funded by the Yukon government, coordinates the territorial interests in the implementation of the Agreement;
- 4) a Claims Implementation Secretariat, located in Yellowknife, coordinates the interests of the Government of the Northwest Territories in all claims implementations in the Territories, including the IFA;
- 5) the Western Arctic (Inuvialuit) Claim Implementation Secretariat within the Department of Indian and Northern Affairs in Ottawa coordinates the administration of federal responsibilities in the Agreement.

These secretariats were created after the IFA was negotiated and are not part of the Agreement.

A complete description of the principal bodies involved in environmental and wildlife management in the settlement region can be found in *Planning Report for the Evaluation of the Implementation of the Environmental and Wildlife Management Provisions of the Inuvialuit Final Agreement*.³ The main activities of the IFA wildlife and environmental management bodies are summarized in Figure 3.

1.3.7 Implementation Planning

The IFA came into effect on July 25, 1984. Shortly thereafter, the Department of Indian Affairs and Northern Development established an office to coordinate implementation planning and the preparation of an omnibus Treasury Board submission. In 1985, the first Treasury Board submission listed 28 activities for which implementation funding would be required. Of these, 12 were directly related, and 7 indirectly related, to the wildlife and environment provisions of the Agreement. This submission, and the two subsequent ones, became the implementation plan for the IFA. In 1986, the Western Arctic (Inuvialuit) Claim Secretariat was created within the Department of Indian and Northern Affairs to coordinate the federal government's implementation responsibilities and activities.

The Auditor General of Canada, in his 1986 and 1990 reports, commented on the lack of formal implementation plans for land claims. The 1990 report dealt with the IFA specifically:

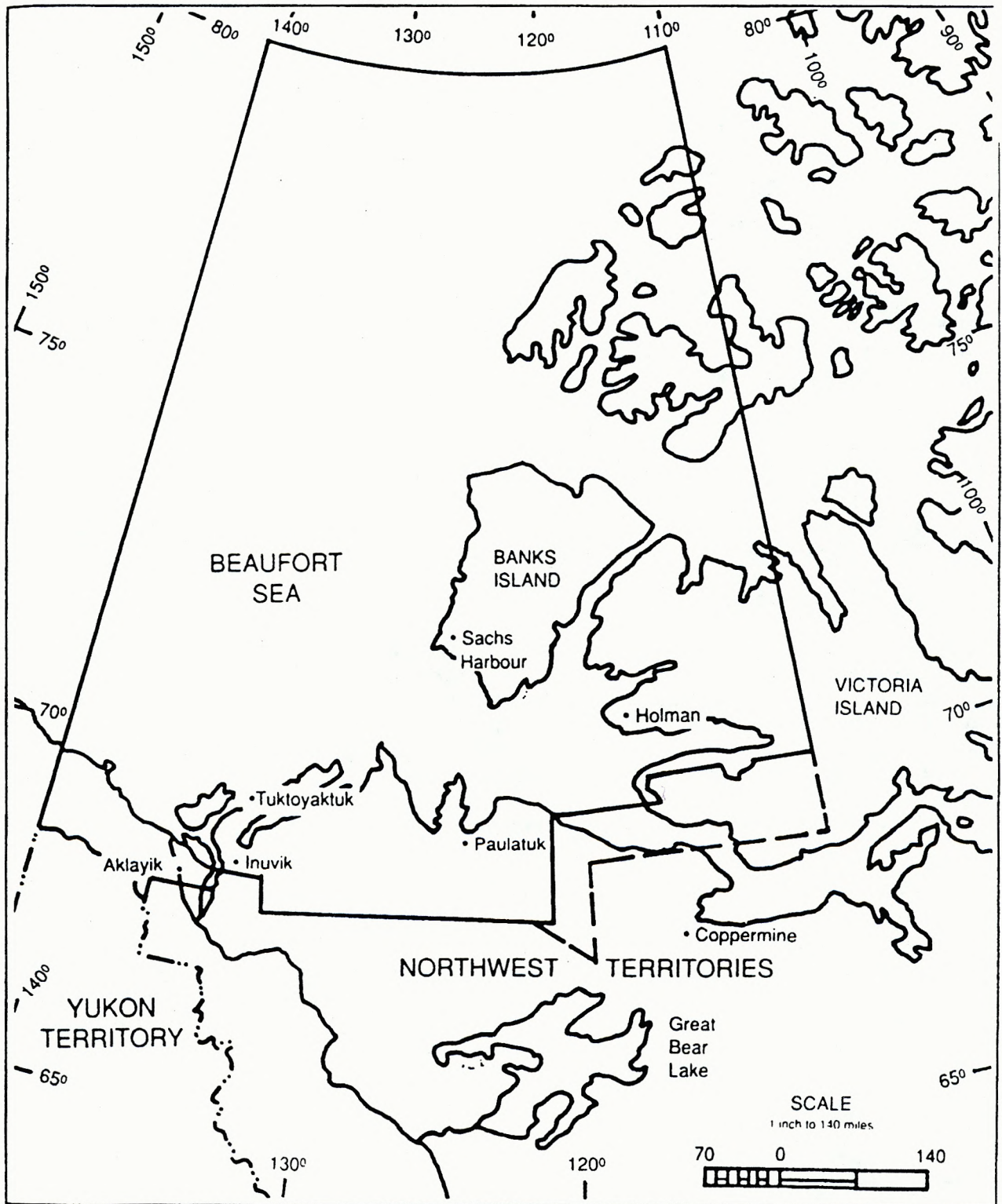
There was no formal planning document produced for the implementation of the IFA. Instead, planning was carried out on an *ad hoc* basis. The absence of such a plan delayed Treasury Board approval of implementation funds for almost two years after the passage of IFA legislation. The Department realized that a well-designed plan would have eliminated many of the problems encountered during implementation and would have provided sufficient detail to produce accurate expenditure estimates. (Para. 19.25)

³ Evaluation Directorate, Department of Indian Affairs and Northern Development, November 1991.

Figure 2

Inuvialuit Settlement Region

Adjusted Boundary —————
Original Boundary - - - - -



Source: Inuvialuit Final Agreement, Annex A

1.3.3 Principles of the Agreement

The three principles that form the basis for the IFA, and which therefore provide the starting point for this evaluation, are²:

- to preserve Inuvialuit cultural identity and values within a changing northern society;
- to enable Inuvialuit to be equal and meaningful participants in the northern and national economy and society; and
- to protect and preserve the Arctic wildlife, environment and biological productivity.

1.3.4 General Provisions

The settlement region (defined in IFA § 7, 8 and 9) is shown on Figure 2. The Inuvialuit have title to approximately 91,000 square kilometres of lands, of which they hold surface and subsurface rights to about 13,000 square kilometres - designated as the 7(1)(a) lands after that subsection of the IFA. On the remaining land (designated as 7(1)(b) lands), the Crown retains the subsurface rights.

The Agreement defines beneficiaries and their rights (IFA §4 and 5), financial provisions (§15) and the corporate structures for the administration of settlement funds, lands and other benefits (§6). The remaining sections of the Agreement describe the provisions for wildlife harvesting, management and compensation, environmental management, conservation on the Yukon North Slope as well as economic measures and a social development program. This evaluation deals only with these wildlife and environmental management provisions.

1.3.5 Wildlife Harvesting

The IFA provides exclusive wildlife harvesting rights for all game on all 7(1)(a) and 7(1)(b) lands and for, fur bearers including grizzly, black bear, polar bear and musk-ox throughout the Settlement Region. Preferential rights are given for subsistence harvests, including marine mammals and fish, except for migratory non-game birds and migratory insectivorous birds. The Agreement also provides for compensation payments to Inuvialuit harvesters for losses that may occur as the result of any development in the region.

1.3.6 Wildlife and Environmental Management Structures

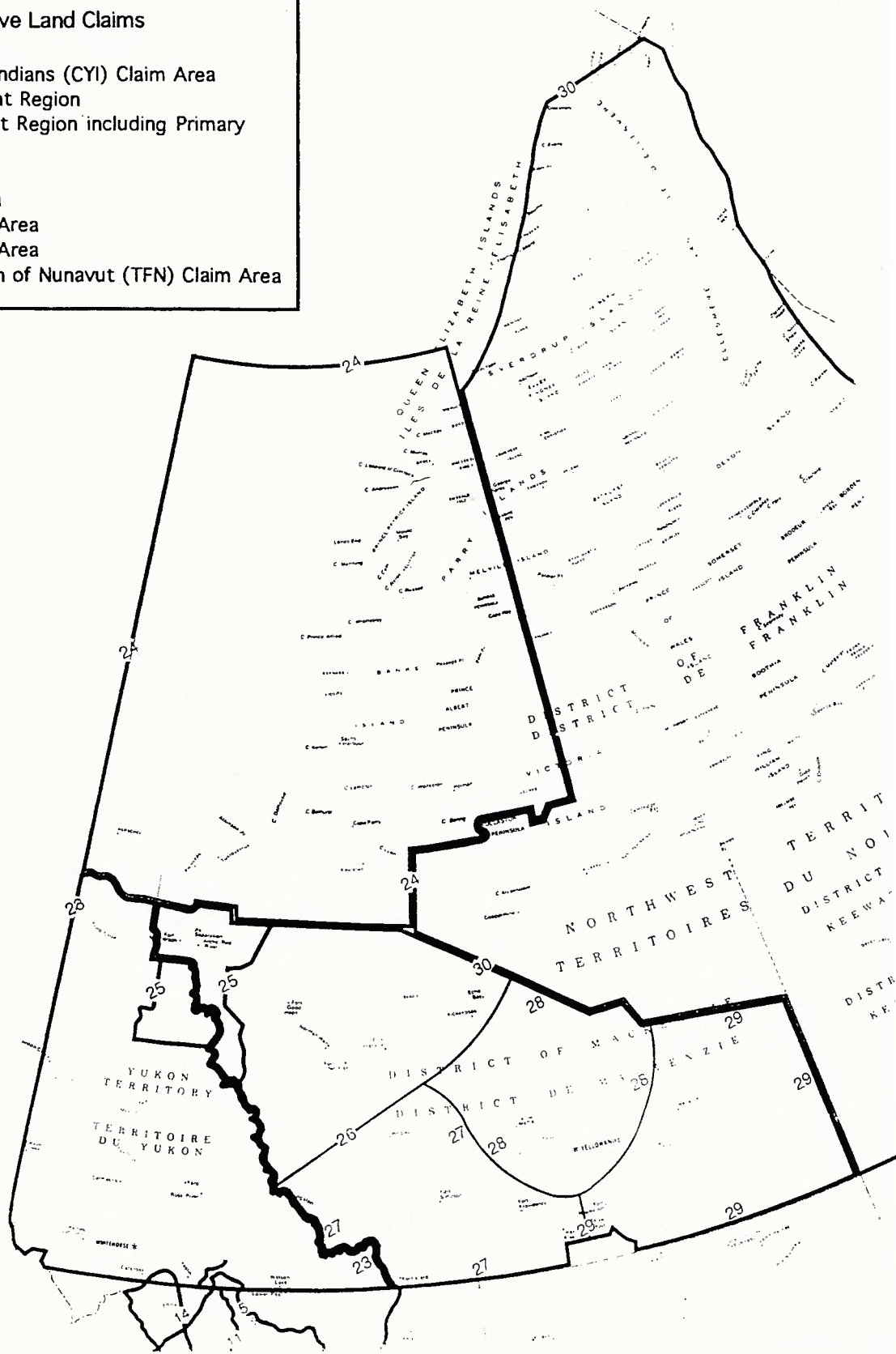
The IFA establishes six community-based Hunters and Trappers Committees, the Inuvialuit Game Council and five joint government/Inuvialuit bodies (Environmental Impact Screening Committee, Environmental Impact Review Board, two Wildlife Management Advisory Councils (North Slope and NWT) and the Fisheries Joint Management Committee), and an Arbitration Board to implement the Agreement's environmental and wildlife aspects. The Research Advisory Council specified in the IFA has not been considered a priority by the parties and has therefore not yet been established. The Park Management Committee for the Herschel Island Territorial Park in the Yukon has completed its work and has been disbanded.

²Inuvialuit Final Agreement, Section 1.

Figure 1: Land Claim Settlements in the North

Indian and Northern Affairs Canada, Comprehensive Land Claims in Canada, 1991

- Comprehensive Land Claims**
- (23) Council for Yukon Indians (CYI) Claim Area
 - (24) Inuvialuit Settlement Region
 - (25) Gwich'in Settlement Region including Primary Use Area in Yukon
 - (26) Sahtu Claim Area
 - (27) Deh Cho Claim Area
 - (28) North Slave Claim Area
 - (29) South Slave Claim Area
 - (30) Tungavik Federation of Nunavut (TFN) Claim Area



(where interests have not been dealt with by treaties or specific legislation). The IFA is a comprehensive claim and, as such, it seeks to establish the means by which the Inuvialuit can be partners in the management and regulation of the land, waters and renewable resources – not just on the lands the Inuvialuit own, but on all lands within their Settlement Region.

The 1984 Inuvialuit Final Agreement was the first comprehensive land claims settlement in the Northwest Territories and the second in Canada (the first being the 1975 Agreement with the Cree and Inuit in Northern Quebec). Since the IFA, an Umbrella Final Agreement has been reached with the Yukon First Nations, Agreements-in-Principle have been negotiated with both the Inuit of the central and eastern Arctic (the TFN or Nunavut claim) and the Dene of the Sahtu region of the Mackenzie Valley, and a Final Agreement ratified with the Gwich'in of the western Arctic. Although they differ in scope and administrative mechanisms, these agreements establish joint government-aboriginal structures to manage wildlife and the environment. The areas covered by these three agreements are adjacent to the Inuvialuit Settlement Region.

Much has changed since the IFA was signed. New constitutional understandings may reshape the form and substance of settlements to be negotiated in the future. The scope for negotiations is expanding to address issues of self-government more directly. The recently negotiated claim in the central and eastern Arctic, for example, includes the provision for the creation of Nunavut, a new territory within which Inuit will form a majority.

The IFA should therefore be considered as one in a continuum of modern-day settlements. This is especially relevant for the environmental and wildlife aspects of the Agreement. These aspects of "land claims" encompass, in both concrete and symbolic terms, many of the core economic, cultural and spiritual values and rights that Native people seek to have protected, entrenched or otherwise maintained. However, these values and rights are not simple matters of legislation and institutional arrangement. They are difficult to define by negotiation. The often adversarial nature of the negotiating process adds to this difficulty.

As is evident from the experience elsewhere (e.g., in northern Quebec), important matters can remain unresolved and be carried forward into implementation where they complicate the process of making the written agreement function effectively and efficiently for all parties.

1.3.2 The Negotiation Process

The IFA negotiations were often highly adversarial and confused. They were driven by heavy pressures related to oil and gas development in the Mackenzie Delta and Beaufort Sea. The Inuvialuit split from the Inuit Tapirisat in the mid 1970s in order to accelerate the negotiations. An Agreement-in-Principle was reached in 1978 and subsequently rejected by the federal government. Federal negotiators changed. Confusing signals were sent from the most senior levels of government. Factions developed within and between governments, and among the potential beneficiaries. Difficult compromises and trade-offs were required on both sides. Some issues which could not be addressed within the negotiating framework or timelines (e.g., the Western Arctic Regional Municipality (WARM)) linger and continue to influence attitudes and performance.

It is difficult to proceed smoothly from a negotiating process which was often adversarial in nature to a co-management regime premised on consensus-building. One interviewee who was involved in the negotiations and early IFA implementation on the government side argues that some federal officials tried to recover in implementation what they thought they had "lost" during the negotiations. The same probably holds true for the Inuvialuit. The number of details left outstanding at the end of the IFA negotiations and the ambiguity in some passages of the IFA made such attempts inevitable.

It became evident during the course of our research that there is a significant difference in "world views" between the interviewees living in the Inuvialuit Settlement Region and most others. Although there obviously are exceptions to this generalization, this difference is evident enough to warrant comment here because of its implications for the evaluation. It means that some interviewees draw very different conclusions about the same matters: the relationship between the Inuvialuit Game Council and the Joint Secretariat presents the best example of this difference in "world view" (see Section 3.2.2.2). Another example concerns the interpretation of the way some of the Joint Bodies have exercised their mandate (see Section 3.1.2.1). This difference colours the assessment these individuals make of the effectiveness of the institutions in question and any measures which should be taken in the future to improve the implementation of the wildlife and environmental management provisions of the IFA.

We need to mention another methodological difficulty we confronted in conducting our research. We sometimes encountered sharply divergent interpretations of the same events. An example was the statement that direct contact between the organisation in question and the Treasury Board "was prohibited" by the Western Arctic Claims Implementation Secretariat (WACIS) of the Department of Indian Affairs and Northern Development until the Autumn of 1990. WACIS categorically denies having done so.

In a different vein, statements in the Planning Report for this evaluation have been challenged even though they were subject at the time of writing to a rigorous review. Thus, we encountered some ambiguity as to whether the Wildlife Management Advisory Council (North Slope) Secretariat should be counted as a separate entity in a survey of the organisations implementing the IFA. The audit of Yukon government expenditures related to the IFA refers to its own implementation secretariat and the WMAC (NS)'s secretariat interchangeably. Such confusion has made it difficult to determine the "facts" in several instances.

Overall, the people we interviewed expressed a strong commitment to the successful implementation of the wildlife and environmental aspects of the IFA. However we also encountered a debilitating lack of charity and respect among several people key to the functioning of the co-management regime and, we believe, an unhealthy preoccupation with past difficulties. The smooth transition into the next funding period, regardless of any changes made to current practice, will demand open-mindedness, a constructive attitude and a desire to achieve common goals.

Our biggest challenge in this evaluation, as in any other, was to identify and focus on the key issues from the myriad of problems, strongly-held views (sometimes sharply divergent within the same organisation) and various reports which have accumulated over eight years of implementation. This large body of "evidence", not all of which is documented, ranges from the fundamental to the trivial. We have decided in this report to focus on those issues whose resolution we believe is essential for continued implementation. As a result, we do not address some matters which were raised during the course of our research but whose resolution is in our opinion subsidiary to the issues we cover.

1.3 The Inuvialuit Final Agreement

1.3.1 Land Claims Context

Modern day settlements with aboriginal peoples in Canada are the exclusive responsibility of the federal government under §91(24) of the 1982 Constitution Act. Since 1973, in response to the Supreme Court decision in the *Calder* case, Canada has been negotiating "land claims" based on outstanding aboriginal title. The federal policy guiding these negotiations was revised and published in 1981 under the title *In All Fairness*. It distinguishes between specific claims (fulfillment of obligations in areas covered by existing treaties) and comprehensive claims

1.2.2 File Review

The documents reviewed were obtained primarily from government and Joint Secretariat files and included financial statements, annual and other reports, various policies, operating procedures and submissions from federal and territorial government agencies and the Joint Bodies. Numerous letters, notes and other materials were also obtained directly from persons interviewed. The file review guide used in this evaluation appears in Appendix E. The file review was used to:

- prepare for interviews
- provide historical context;
- validate information obtained in interviews;
- obtain supporting documentary evidence;
- develop recommendations.

All the documents used in this project are listed in the bibliography at the end of this report.

1.2.3 Written Questionnaires

Fourteen written questionnaires were completed by members of the Evaluation Advisory Committee and selected participants. The written questionnaires were completed in advance of this evaluation in order to provide necessary background information on the implementation of the environmental and wildlife management provisions of the IFA and help identify further lines of inquiry. The questions posed are listed in Appendix F.

1.2.4 Focus Groups

We held two focus group sessions with the Advisory Committee and selected participants, one at the beginning of the project in April 1992, and one towards the end, in December 1992. The first focus group was used to explore some of the evaluation issues and review many of the logistical and administrative details needed to conduct our research. The second focus group discussed the evaluation's preliminary conclusions and recommendations. The materials used in the second focus group session are contained in Appendix G.

1.2.5 Literature Review

Finally, we reviewed the available literature for articles on the implementation of the Inuvialuit Final Agreement and other claim settlements. These articles are referenced in the bibliography.

1.2.6 General Comments on the Methodology

In a recent article, Mike Robinson and Lloyd Binder ask whether the IFA is "aimed at forging a true synthesis of world views on resource use or is it simply another means in the long litany of southern acculturation processes?"¹ This provocative question underlies the very different approaches possible in conducting this evaluation and the difficulty of reaching a consensus on the performance of the institutions involved in the implementation of the environmental and wildlife management provisions of the IFA.

¹Robinson and Binder: "The Inuvialuit Final Agreement and Resource-Use Conflicts: Co-management in the Western Arctic and Final Decisions in Ottawa", in Canadian Institute of Resources Law, University of Calgary, 1992. Dr. Robinson is the Executive Director of the Arctic Institute. Mr. Binder is a resource person for the Inuvialuit Game Council.

Table 1 - IFA Interviews by Categories

Category	Location								Total
	Mackenzie Delta	Yellowknife	Whitehorse	Ottawa	Calgary	Other	Total		
Inuvialuit Beneficiaries	26	1						27	
Members of Joint Bodies	28		2		1	1		32	
Joint Secretariat	8							8	
Federal Officials	6	2		13	1	1		23	
Territorial Officials	7	9	3	1				20	
Others	2			1	5			8	
Total	77	12	5	15	7	2		118	

1.2.1 Interviews

Interviews with beneficiaries and other individuals involved in or familiar with the environmental and wildlife provisions of the IFA were the most important methodological tool used. To counteract the inherently subjective nature of this approach, we interviewed a large number of people, 80 in all, representing a broad spectrum of views and experiences on the IFA. Most of these interviews were conducted between September and December 1992. (See Appendix C for Interviewees)

All interviewees were selected from a list approved by the Evaluation Advisory Committee. They included civil servants from the federal and the two territorial governments, members of the various joint bodies established under the IFA, members of the six Hunters and Trappers Committees and the Inuvialuit Game Council, staff of the Joint Secretariat and the Inuvialuit Regional Corporation, Inuvialuit beneficiaries, industry representatives and others. Most of the interviews, which lasted for the most part between 60 and 90 minutes each (and on occasion, for several hours) were conducted in person in Aklavik, Inuvik, Yellowknife, Ottawa, and Calgary. A few interviews were also conducted by phone.

Table 1 below provides a breakdown of interviewees by category and by location. Because several of these interviewees play more than one role in the implementation of the environmental and wildlife management provisions of the IFA, the totals in Table 1 add up to 118 rather than 80.

Appendix D contains a copy of the guide employed in conducting these interviews. The guide was pilot tested in Ottawa before being broadly used.

Although this guide provided the point of departure for all interviews conducted, the interview questions evolved over time as some issues assumed greater salience. Thus, we used the interviews in the later stages of our research to test views we had heard in previous interviews. We also found that some of the most useful insights came in answers to the open-ended questions, as the discussion which ensued helped us engage the interviewees in formulating solutions to their concerns. Finally, it should also be noted that we adapted the guide to reflect the background and knowledge of the person interviewed. As a result, any quantitative analysis of the results we obtained would not lead to meaningful statistical results. Where appropriate, however, we do indicate whether a particular concern was shared by a few or many interviewees.

There was a natural tendency among the people we interviewed to dwell on what preoccupied them rather than on what worked well. This report reflects this tendency inasmuch as it devotes greater space to problems which need to be addressed than to describing the smooth functioning of the institutions under review.

The number of interviews conducted gives a misleading indication of how many individuals may have commented on any given issue. For some issues, the sample size amounted to a few individuals only, raising the question of how much weight could be placed on the opinions expressed. In these instances, we had to make an assessment based on the existence of supporting documentation, the credibility of the person interviewed (e.g., personal knowledge of the information) and our professional judgment.

Finally, as all interviewees were promised confidentiality, we have taken care to ensure that comments made cannot be attributed to specific individuals. In some cases, we have had to present the evidence in general terms to protect the identity of the interviewees.

In our proposal to conduct this evaluation, we stated that we saw this project going beyond traditional program evaluation principles to resemble aspects of a strategic planning exercise. We do not see the purpose of this document as presenting a "report card" on the various institutions involved in IFA implementation. We believe rather that the evaluation can be most helpful in bringing the key issues in implementation into focus and in proposing solutions to address identified problems. It should be emphasized, however, that this evaluation followed *The Principles for the Evaluation of Programs* published by the Office of the Comptroller General of Canada.

We have reformulated the five issues we were given to reflect better what we heard in interviews and the focus groups, and found in the files. We have combined issues (1) and (2) on expectations and cover these in chapter 2. We have similarly combined issues (3) and (4) because we believe it is more useful to comment on effectiveness and to analyse the conditions for success together, and address these in chapter 3. Because of the importance all participants attach to funding issues, we discuss funding separately in chapter 4. Finally, we address measures to improve implementation (issue 5) in chapter 5, conclusions and recommendations.

But first, we outline the methodology employed in conducting the evaluation. We then turn to a brief consideration of the context in which the IFA's environmental and wildlife provisions are being implemented before closing the chapter with a description of the environmental and wildlife regime established under the IFA.

1.2 Methodology

This evaluation was overseen by a twelve-member Evaluation Advisory Committee composed of one official from each of the federal departments of Indian and Northern Affairs, Fisheries and Oceans, Environment and the Treasury Board Secretariat, representing the federal government; one representative from each of the two territorial governments; and five representatives selected by the Inuvialuit Game Council to represent Inuvialuit interests. These were: two directors of the Inuvialuit Game Council; and the chairmen of the Fisheries Joint Management Committee and the two Wildlife Management Advisory Councils (see Appendix B). The Committee was chaired by the Evaluation Directorate of the Department of Indian and Northern Affairs. Every member of the committee, except the Chair and one other, are, or have been, directly involved in the implementation of the environmental and wildlife management provisions under evaluation or carry professional responsibilities which include the implementation of these provisions.

The Committee approved the Planning Report for this evaluation, drafted the Terms of Reference, selected the contractor and provided the overall guidance for the work, including approval of the interview and file review guides, the list of interviewees and the interim report. The Committee also reviewed two early drafts of this report. The Committee's chair helped edit the final report. The Committee met with the contractor in five formal sessions: in Yellowknife in April and December 1992, in Edmonton in July 1992, in Ottawa in January 1993, and by conference call in March 1993. Some individuals directly involved in the IFA implementation also attended the Yellowknife meetings.

The information on which this report is based was gathered through multiple lines of inquiry including (i) interviews, (ii) reviews of files and reference documents, (iii) written questionnaires, (iv) focus groups and (v) a review of the relevant literature.

1 INTRODUCTION

In 1984, the Parliament of Canada passed legislation to give effect to the Inuvialuit Final Agreement (IFA) reached between the Committee for Original Peoples' Entitlement, representing the Inuvialuit of the Western Arctic, and the Government of Canada. The IFA established several bodies, funded by the Government of Canada, to implement its environmental and wildlife management provisions. Current funding arrangements expire on March 31, 1994. The Department of Indian Affairs and Northern Development has undertaken to return to Treasury Board by October 1993 with a proposal for long-term funding arrangements.

In 1991, the Inuvialuit Game Council and the Joint Bodies established under the IFA proposed that their performance in fulfilling their mandates be evaluated. The federal and territorial governments agreed. The purpose of this evaluation is to provide all parties with the information they need to discuss implementation of the IFA after current funding arrangements expire.

1.1 Evaluation Objectives and Issues

This evaluation has three objectives (see Terms of Reference, Appendix A):

- to measure the effectiveness of the participants in fulfilling their environmental and wildlife management implementation responsibilities as established by the Inuvialuit Final Agreement (IFA), and to make suggestions regarding possible improvements within the current regime;
- to provide all participants with the information they need to discuss implementation of the IFA after the present funding arrangements expire in March 1994; and
- to provide participants with "lessons learned" from implementing the environmental and wildlife provisions of the Agreement.

To address these objectives, the evaluation was designed to focus upon five main issues:

1. the extent to which, and the ways in which, expectations of the various participants regarding the implementation of the environmental and wildlife provisions of the IFA have evolved from 1984 to the present, and the congruence or divergence of these expectations;
2. the impact of these expectations on implementation;
3. the effectiveness of the structures, mechanisms and processes put in place to implement these provisions and to reconcile related disputes in accordance with the principles set out in section 1 of the Agreement;
4. an analysis of the conditions that resulted in successful or unsuccessful implementation of these provisions and resolution of disputes; and
5. the identification of measures to improve implementation of these provisions of the IFA.

Each of these issues gave rise to a series of questions, over a hundred in all, which provided the basis for the written questionnaires, the interview guides, the file review, the focus groups and the literature search conducted as part of this evaluation (all further described in the methodology, below).

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- C Interviewees
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- E File Review Guide
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Abbreviations

CPS	Canadian Parks Service, DOE
CWS	Canadian Wildlife Service, DOE
DFO	Department of Fisheries and Oceans
DIAND	Department of Indian Affairs and Northern Development
DOE	Department of the Environment
EIRB	Environmental Impact Review Board
EISC	Environmental Impact Screening Committee
FJMC	Fisheries Joint Management Committee
GNWT	Government of the Northwest Territories
HTCs	Hunters and Trappers Committees
IFA	Inuvialuit Final Agreement
IGC	Inuvialuit Game Council
IRC	Inuvialuit Regional Corporation
ISR	Inuvialuit Settlement Region
JS	Joint Secretariat
TB	Treasury Board
WACIS	Western Arctic (Inuvialuit) Claim Implementation Secretariat
WMAC(NS)	Wildlife Management Advisory Committee (North Slope)
WMAC(NWT)	Wildlife Management Advisory Committee (Northwest Territories)
YTG	Yukon Territorial Government

FOREWORD

We are pleased to submit this report to the Department of Indian and Northern Affairs and the Evaluation Advisory Committee for their consideration.

We would like to thank the eighty individuals we interviewed in the Inuvialuit Settlement Region and across the country for the many insights they freely shared with us. The overwhelming message they gave us is that, with a few noteworthy exceptions, the environmental and wildlife management provisions of the Inuvialuit Final Agreement are being implemented well.

Nevertheless, we believe that a number of important changes, primarily related to financial arrangements and the role of the Joint Secretariat based in Inuvik, need to be made to ensure continuing success. Our report addresses these matters and focuses on the issues the interviewees told us are most important to the future of the IFA's environmental and wildlife management provisions.

Finally, we would like to acknowledge the contribution of the Evaluation Advisory Committee which played such an active role in the development of this report. In many respects, this is their report too.

Resource Futures International

NOTICE TO READER

Members of the Evaluation Advisory Committee that was established to oversee this study wish to advise the reader as follows:

"In our opinion, the final report does not document and report back fully on all the issues that were to be addressed in the course of the study. Of concern are:

- the lack of focus on government bodies and their role in implementation,
- insufficient attention to wildlife studies, which account for a major portion of total expenditures, and
- the absence of a section of lessons learned.

The opinions, conclusions and recommendations expressed in this report are those of the contractor. Nevertheless, the Committee is of the view that many of the recommendations are worthy of further considerations and should be discussed among the agencies responsible for implementation.

John Bailey - Inuvialuit Game Council
Bob Bell - Inuvialuit Game Council
Larry Carpenter - Inuvialuit Game Council
Marielle Godbout - Treasury Board Secretariat
Charlie Hoagak - Inuvialuit Game Council
Fred McFarlane - Department of Indian Affairs and Northern Development
Lindsay Staples - Inuvialuit Game Council
Trevor Swerdfager - Department of the Environment
Skeeter Verlaine-Wright - Yukon Territorial Government
Mark Warren - Government of the Northwest Territories
Gerald Yaremchuk - Department of Fisheries and Oceans
Rosemary Wallbank - Chair"



Your file Votre référence

June 18, 1993

Our file Notre référence

Members of the Departmental Audit and Evaluation Committee


**Re : Evaluation of the Environmental and Wildlife Provisions of the
Inuvialuit Final Agreement (IFA)**

Attached for your review, in advance of the June 30th Departmental Audit and Evaluation Committee (DAEC) meeting, is a copy of the draft final report on the above-noted evaluation.

For various reasons, this study has taken longer than anticipated to complete. However, as indicated in the Notice to the Reader, after substantial editing by the Evaluation Directorate representative, the Evaluation Advisory Committee has accepted the report, albeit with some reservations.

In general, the evaluation found that considering the different interests and the dynamics surrounding the IFA, the implementation of the environmental and wildlife provisions is going well. However, the report suggests that aspects of the co-management regime related to the mandates, structures and operations of the institutions need to be improved to enhance its effectiveness.

The complete material for the DAEC meeting will be forwarded to you next week and will include only the Executive Summary for this evaluation.


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Attachment

Notes sur les œuvres

Les habitants de la Côte Ouest

(Photo en bas à gauche)

Les Indiens qui demeurent présentement le long de la Côte Ouest du Canada sont de la même descendance d'habiles marins qui ont navigué sur l'océan du Nord Pacifique, bien avant l'arrivée des Européens, dans des canots taillés à la main. Afin d'assurer leur subsistance, ces habitants affrontaient quotidiennement les risques d'une région fréquemment appelée le "cimetière marin du Pacifique". Le "Westcoasters" est un hommage visuel pittoresque à la volonté indomptable et courageuse des habitants de la Côte Ouest.

et sur les artistes ...

Roy Henry Vickers

Roy Henry Vickers, un Tsimshian de la Côte, a passé son enfance à Kitkatla, un ancien village Indien situé sur une île à l'embouchure de la rivière Skeena en Colombie-Britannique. Plus tard, sa famille s'installa dans la région de Victoria où il suivit des classes d'art. Il ne pouvait pas comprendre les peintres européens et les "grands maîtres". Ainsi donc, il se tourna vers l'art de son patrimoine Tsimshian et c'est ici qu'il découvrit sa créativité.

Dans peu de temps, ses œuvres d'art donnèrent de grandes espérances et il fut admis à l'institution "Gitanmax School or Northwest Coast Indian Art" à Ksan, Hazelton en Colombie-Britannique. Suite à deux années d'études sérieuses à Gitanmax, Roy a évolué en un artiste de forte compétence et possédant une aptitude prononcée à sensiblement marier les formes contemporaines et traditionalistes. (Roy est aussi un talentueux conférencier à l'Université et acteur de télévision.) Ses sculptures et peintures font partie des grandes collections publiques et privées au Canada, aux États-Unis et au Japon.

Creation

(Photo du milieu)

Si nous utilisons les paroles de cet artiste " ... les créations significatives sont guidées par les œuvres du Créateur et sont considérées sacrées. C'est de la nature que les peuples autochtones adoptent le symbolisme." Ainsi, la "Création" devint la première de ses peintures Iroquoises. C'est un œuvre qui décrit en symboles physiques une vision d'anciens concepts spirituels Iroquois : l'Île Tortue — la Terre, le Grand Arbre de la Paix — Fraternité et Unité, l'Aigle Gardien — le Gardiennage du Créateur, et le Soleil — notre Frère Aîné.

Arnold Jacobs

Arnold Jacobs est un artiste Iroquois des Six Nations qui se révèle en tant qu'interprète et historien de la culture abondante de son peuple. Suite à ses études en art spécialisé à l'école Central Technical de Toronto, Arnold continua de développer ses techniques distinctes au cours de treize ans d'expérience dans le domaine de l'art commercial. Ses travaux sont reconnus au niveau international.

L'expression créative d'Arnold est centrée sur les symboles de la terre et du ciel — tels que les eaux, les quatre vents, le tonnerre et le soleil. Pour lui, ces éléments et phénomènes vitaux sont aussi des forces spirituelles qui devraient nous inspirer une juste reconnaissance au Créateur.

***Traduction:**

"... meaningful traditions are governed by the works of the Creator, and are believed to be sacred. It is from nature that the Native peoples adopt symbolism."

"The Goose and the Mink"

(Photo en haut à droite)

L'oie et la martre du Nord offrent une représentation vive symbolisant la lutte interminable et universelle entre le bien et le mal, les forces de la vie et de la mort.

Nous voyons dans la création animée et inanimée — dans celle de la proie et du prédateur ainsi que dans les variations entre les soleils éclairci et obscurci — une accentuation du conflit continué entre ces forces et le sentier qui les divise.

Jackson Beardy

Jackson Beardy est le cinquième fils d'une famille de 13 dans la communauté indienne isolée d'Island Lake quelques 600 kilomètres au nord de Winnipeg au Manitoba.

À l'âge de 7 ans, il fut privé de son chez-lui et de son langage et passa douze années désorientées et traumatisantes dans un pensionnat. Jackson a donc vécu son adolescence à lutter pour se réconcilier avec les deux mondes des indiens et des blancs. C'est à ce temps-là qu'il partit vers le Nord en vue de réapprendre les usages et les préceptes de son peuple.

Plus tard, méconnu et ne connaissant aucun autre artiste Indien au Canada, il développa une forme d'art particulière décrivant les légendes traditionnelles et la nature en images créatives, symboliques et d'une coloration unique. Avec le temps, ses peintures ont pris place parmi les collections reconnues à travers l'Amérique du Nord et l'Europe. Sa mort récente en décembre 1984 fut une perte déplorable pour le Canada.