

Impact Evaluation of Comprehensive Land Claim Agreements

**Evaluation, Performance Measurement and Review Branch
Audit and Evaluation Sector
Indian and Northern Affairs Canada**

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Executive Summary

Comprehensive land claims are based on the assertion of continuing Aboriginal rights and claims to land that have not been dealt with by treaty or other means. Comprehensive land claim agreements (CLCAs) are modern treaties between Aboriginal claimant groups, Canada and the relevant province or territory. To date, a total of 21 comprehensive claim agreements, covering roughly 40% of Canada's land mass, have been ratified and brought into effect since the announcement of the Government of Canada's claims policy in 1973. These agreements involve over 91 Aboriginal communities with over 70,000 members.

The purpose of the evaluation is to assess the impacts of comprehensive land claim agreements and the extent to which the objectives established for the CLCAs have been achieved. Four agreements were examined: Northeastern Quebec Agreement with the Naskapi (NEQA); Inuvialuit Final Agreement (IFA); Gwich'in Comprehensive Land Claim Agreement (GCLCA); and Sahtu Dene and Métis Comprehensive Land Claim Agreement (SDMLCA).

The methodology employed for the evaluation includes a literature review, key informant interviews, a comparative analysis of community-well being measures, administrative file review, and a survey of members of land and resource management and environmental review boards. Field work for the evaluation was conducted throughout the year 2008.

Key findings from the evaluation are as follows:

Fulfillment of CLCA Terms

The four land claim agreements were all centred on recognizing and clarifying the rights to land of the Aboriginal signatories, and the designation of larger areas of land as being within the settlement area and affording the Aboriginal signatories special access and land and resource rights within those lands. Each agreement included the transfer of funds from the federal government to the Aboriginal signatories. The agreements all prescribed the establishment of governance, administrative and financial bodies by the Aboriginal signatories and the creation of new land and resource co-management boards, as well as committees to manage land and resources in the settlement areas and manage the implementation of the agreements. The evaluation examined the extent to which these essential elements of the agreements have been fulfilled. Results from the evaluation conclude that:

- The terms of agreements have been fulfilled with respect to the transfer of funds and recognition of rights to land, but issues remain regarding the level of ongoing funding and the nature of federal responsibilities related to the implementation bodies prescribed by the agreements.
- The prescribed land and resource management boards and committees have been established in a timely fashion and are widely viewed as operating well, though some settlement areas have experienced difficulty at times in retaining board and committee members as well as maintaining an adequate level of capacity among members. The decentralized nature of some boards especially in the Sahtu and Gwich'in areas means that expertise and expenses are not easily shared among boards. Attracting and keeping

highly skilled personnel (engineers, managers, resource and environmental expertise) will likely be an ongoing struggle in very small and remote communities.

- There is a perception among Aboriginal officials that the federal government is primarily interested in addressing the letter of the agreements and not the true spirit and intent, resulting in barriers to progress. From this perspective the objectives of the agreements have not yet been reached, though funds have been transferred, rights to land recognized and bodies established as agreed.

Clarity and Certainty of Ownership and Access to Land and Resources

One of the primary impetuses for the negotiation of the land claims agreements was the desire to establish an environment that was more conducive to resource development and other economic development opportunities, while protecting the interests of the Aboriginal people making claim to the settlement areas. Key to this was a greater degree of clarity and certainty as to the ownership of land and access to land and resources. An environment of greater certainty as to ownership and access was intended to reduce the risk associated with legal challenges and facilitate investment. Results from the evaluation conclude that:

- The land claim agreements have succeeded, with minor exceptions, in establishing clarity and certainty regarding land ownership and access.
- There have been several lawsuits filed in the JBNQA and NEQA settlement regions by non-beneficiaries, but no other legal challenges associated with land ownership and access or resource-related rights.
- Formal dispute resolution bodies have rarely been used to settle land ownership and access issues and there have been few informal disputes.
- Three issues related to land use that arose early on in the Inuvialuit Settlement Region have been settled after lengthy delays.
- Information on land ownership and access is readily available and industry has been informing itself and responding positively to the new circumstances, however, there remains some lack of clarity with regard to ownership and access among residents in the NWT settlement areas.

Enhancement of Working Relations among Stakeholders

The CLCAs are designed to improve working relations between the federal government and Aboriginal people as well as clarify and nurture a positive working relationship between Aboriginal groups and prospective developers from outside the settlement areas. Results from the evaluation conclude that:

- Aboriginal-to-industry relationships have changed fundamentally as a result of the CLCAs and are viewed positively by both Aboriginal and outside business representatives.
- Aboriginal-to-government relationships remain similar to before the land claim agreements despite limited improvements in certain areas.
- There has been an emergence of joint ventures and other close working relationships between Aboriginal companies and non-Aboriginal resource development companies.
- Aboriginal and government members of land and resource management bodies are working together collaboratively and effectively.

- The organizations and structures established under the agreements have altered internal Aboriginal political dynamics and highlighted the challenge of maintaining community-level decision making while gaining benefit from central structures and authorities.

Stable, Predictable Environment for Economic Development

The land claim agreements make reference to the objectives of achieving greater Aboriginal economic self-sufficiency and enabling Aboriginal people to participate fully in the northern Canadian economy. The focus of the evaluation is on the extent to which the CLCAs have contributed to creating an environment that encourages economic development. Results from the evaluation conclude that:

- The regulatory regime, in most instances, has been operating in a timely fashion and has not been a deterrent to resource development and investment.
- Land claim agreements have been an important factor in the increase in Aboriginal participation in the economy by contributing to the development of Aboriginal infrastructure and to both communally-owned and independent Aboriginal business development.
- There remains a challenge to improve training and business opportunities in the northern economy. A perception among Aboriginal leaders is that the lack of dedicated federal government economic development support, beyond programs of general application, is limiting progress.

Meaningful and Effective Voice for Aboriginal People in Decision-making

The four land claim agreements have provisions designed specifically to provide Aboriginal signatories with a stronger voice in decision-making with regard to land and resources. This was accomplished primarily through the land and resource management bodies established under the agreements. Results from the evaluation conclude that:

- The land and resource management regime represents a positive change in the role of Aboriginal people in the decision-making for the settlement areas. Aboriginal people now have input into development decisions affecting their communities.
- The land and resource management bodies have all been established with full and active participation from Aboriginal members. However, delays in nominations and appointments have hindered some activities.
- There is requirement to streamline the community consultation process as well as to support land and resource management bodies in managing their workloads and the technical aspects of development proposals.
- Land and resource management bodies are successful in balancing scientific and traditional knowledge in decision-making.

Social and Cultural Well-being in Aboriginal Communities

The preservation of cultural distinctiveness and identity is of paramount importance within Aboriginal communities and is evident in most agreements. The Comprehensive Land Claims Policy explicitly recognizes the goal to encourage cultural and social well-being through land

claim agreements. The evaluation examines the extent to which the agreements have contributed to sustainable social and cultural well-being. Results from the evaluation conclude that:

- There have been modest gains in employment, income, education and housing in settlement areas since the agreements have been in place.
- A comparison of “agreement” and “non-agreement” Aboriginal communities of similar size and location does not associate gains in well-being in the land claim communities with the land claim agreements themselves.
- Participation rates in traditional Aboriginal pursuits are lower than prior to the land claim agreements, yet are still prevalent.
- Knowledge of Aboriginal languages is on a decline. Programs using land claim agreement funding and other federal and provincial/territorial government support are working with the intention of reversing the trend.
- Crime and substance abuse rates are on the rise in the NWT. There is no evidence of a direct link to the land claim agreements, but many community residents see the agreements as forces of modernization which contribute to social problems.

In Conclusion:

- The federal government has fulfilled the terms of the comprehensive land claim agreements with respect to the transfer of funds and the recognition of rights to land to the Aboriginal signatories. Moreover, as prescribed under the agreements, the governance, administrative and financial bodies as well as the land and resource co-management boards and committees have been established.
- Comprehensive land claim agreements have created certainty and clarity regarding land ownership and use of land and resources. This has reduced the risk associated with legal challenges and created an environment that has facilitated investment.
- The land and resource management and regulatory regime established under the comprehensive land claim agreements have resulted in a collaborative and consensus-based decision-making process that is providing Aboriginal people with a meaningful voice on issues affecting their lands and resources.
- The comprehensive land claim agreements have been an important contributor in transforming the role of Aboriginal people in the economy by contributing to the development of Aboriginal infrastructure and Aboriginal business development. This has resulted in communities being well-positioned to take advantage of resource and other economic development opportunities.
- There have been modest gains in measures of income, employment, education and housing in the settlement areas since the agreements have been put in place though the evaluation was unable to determine whether the gains in well-being were directly linked to the land claims agreements.

- There has been insufficient recognition by the federal government of the costs and organizational and training requirements associated with the consultative approach and the land and resource management structures established under the agreements.
- There has been a lack of targeted, northern-appropriate federal economic development support that addresses the need to train and educate residents, develops strategies to retain those currently employed, and identifies business opportunities in remote communities.
- There is a perception among Aboriginal officials that the federal government has been primarily interested in addressing the letter of the agreements and not the true spirit and intent, resulting in barriers to progress. From this perspective the objectives of the agreements have not yet been reached, though funds have been transferred, rights to land recognized and bodies established as agreed. Differences in interpretation of objective provisions have meant that the anticipated change in relationship between the federal government and Aboriginal signatories towards greater collaboration and trust has not been realized.

It is recommended that INAC:

1. In partnership with Aboriginal organizations and other federal departments and agencies, consider leading the establishment of a policy for the implementation of comprehensive land claims which would clarify roles and responsibilities and the federal approach to implementing CLCAs.
2. Work with central agencies and other federal departments and agencies to establish a senior-level working group charged with overseeing issues that may arise in agreement implementation.
3. Work in partnership with Aboriginal and provincial/territorial signatories to set specific objectives, establish targets, monitor progress and take remedial action as required to properly implement agreements.
4. Work with land and resource management boards to streamline and strengthen consultative processes and identify training and administrative needs.
5. Promote training and business development tailored to northern needs and circumstances, taking into account the high cost of delivering programs in the North.

1. Introduction

Comprehensive land claims are based on the assertion of continuing Aboriginal rights and claims to land that have not been dealt with by treaty or other means. Comprehensive land claim agreements (CLCAs) are modern treaties between Aboriginal claimant groups, Canada and the relevant province or territory. CLCAs define a wide range of rights and benefits to be exercised by claimant groups and usually include full ownership of certain lands in the area covered by the settlement; guaranteed wildlife harvesting rights; guaranteed participation in land, water, wildlife and environmental management throughout the settlement area; financial compensation; resource revenue-sharing; specific measures to stimulate economic development; and a role in the management of heritage resources and parks in the settlement area. Many agreements include provisions relating to Aboriginal self-government.

The purpose of this evaluation is to assess the impacts of comprehensive land claim agreements and the extent to which the objectives established for the CLCAs have been achieved.

1.1 Comprehensive Land Claims Policy

A Government of Canada policy for the settlement of Aboriginal land claims was established in 1973 following the Supreme Court of Canada ruling in the *Calder* case, involving the Nisga'a claim over title to their traditional lands in British Columbia. The introduction of *In All Fairness: A Native Claims Policy*, now the Comprehensive Land Claim Policy, was designed to lay out the principles to negotiate modern treaties originally put forth in the 1973 Indian and Northern Affairs (INAC) policy statement.

The objective of the policy was to provide a substantive and balanced negotiating process that would produce a long-lasting definition of rights to lands and resources. The original policy, which was reaffirmed in 1981, exchanged claims to undefined Aboriginal rights for a clearly defined package of rights and benefits set out in a settlement agreement. Section 35 of the *Constitution Act, 1982* recognizes and affirms Aboriginal and treaty rights that now exist or that may be acquired by way of land claim agreements.

Significant amendments to the Comprehensive Land Claims Policy were announced in December 1986. These included widening the scope of comprehensive claims negotiations to include offshore wildlife harvesting rights, sharing of resource revenues, an Aboriginal voice in environmental decision-making and a commitment to negotiate self-government. The amended policy also included a requirement to negotiate implementation plans with all claim agreements. The 1986 policy also allowed for the inclusion of provincial and territorial governments as partners at the negotiation table, as well as allowing for the protection of third party rights. In addition, two new terms “clarity and certainty” were inserted in the revised policy.

1.2 Comprehensive Land Claim Agreements

The first settled land claim was the James Bay Northern Quebec Agreement (JBNQA) with the Cree and Inuit of northern Quebec in 1975. To date, a total of 21 comprehensive claim agreements, covering roughly 40% of Canada's land mass, have been ratified and brought into effect since the announcement of the Government of Canada's claims policy in 1973. These agreements involve over 91 Aboriginal communities with over 70,000 members. Most agreements were signed in the mid- to late-1990s, and the most recent, the Nunavik Inuit Land Claim Agreement, was signed in 2008. Outstanding claims cover approximately 20% of Canada involving 270 Aboriginal communities with approximately 200,000 members.

In addition to its lead role in negotiations, INAC has been delegated to coordinate and oversee the implementation of federal obligations which include monitoring other federal departments, such as Fisheries and Oceans, the Canadian Wildlife Service, Parks Canada, Industry Canada, Transport Canada, Environment Canada and Natural Resources Canada, as well as fulfilling its one-time and ongoing obligations as per the terms of the agreement. Departments and agencies must ensure that their policies, programs, statutes and regulations and on the ground activities comply with the land claim agreements.

Aboriginal signatories and the land and resource management bodies established under the agreements work regularly with federal departments and agencies in conducting research, developing management strategies, making decisions, seeking to ensure enforcement of those decisions and generally monitoring compliance in the settlement areas.

Provincial and territorial governments, as co-signatories to the agreements and/or implementation plans, are responsible to ensure that obligations within their jurisdiction are implemented in a timely manner and that laws, policies, programs and activities within the settlement areas are in accordance with the agreements.

The approach for evaluating CLCAs embraces the notion that parties to an agreement have high-level ideas about what they want to see achieved through the settlement and implementation of agreements. The following anticipated achievements represent a blending of information from Canada's Comprehensive Land Claims Policy, the preambles and individual chapters of the agreement and side agreements and interview results. The following issues express the various shared interests of the parties who signed the agreements:

1. create certainty and clarity regarding ownership and use of lands and resources;
2. provide for the participation of Aboriginal groups in decision-making concerning the use, management and conservation of wildlife, land, water, and other resources;
3. create the conditions that support the emergence of new Aboriginal governance structures and relationships among federal, provincial and Aboriginal regional/local governments;
4. create a stable environment for investment in the settlement area for the benefit of both Aboriginal and non-Aboriginal people;
5. provide the tools for the continuation of an economic and spiritual relationship between Aboriginal people and the land;
6. encourage and promote self-sufficiency and cultural and social well-being for Aboriginal people;

7. provide Aboriginal communities with the tools to be meaningful participants in the general economy; and
8. provide for the recognition of Aboriginal cultural values and traditions within Canadian society at large.

1.3 Recent Reports

Recent reports related to comprehensive land claims include:

- The Standing Senate Committee on Aboriginal Peoples study on the implementation of comprehensive land claim agreements in Canada, which concluded that the current federal policy and organizational structures are ill-suited to manage the implementation of modern treaties and the complex issues that arise from these agreements.¹
- The review of the regulatory system across the North which concluded that the current system in the Northwest Territories (NWT) is overly complex and not sustainable in its current form given local capacities and the technical and workload demands it places on local advisory and regulatory bodies.²
- The Auditor General of Canada's report on the Inuvialuit Final Agreement that found that INAC had not met some of its significant obligations and management responsibilities in implementing federal obligations under the Agreement.³
- Report from the Institute for Research and Public Policy (IRPP) regarding Aboriginal quality of life under a modern treaty from the experiences of the Cree of James Bay and Inuit of Quebec.⁴

¹ Honouring the Spirit of Modern Treaties: Closing the Loopholes: Interim Report Special Study on the Implementation of Comprehensive Land Claims Agreements in Canada, Standing Senate Committee on Aboriginal Peoples, May 2008.

² Road to Improvement: The Review of the Regulatory Systems Across the North, Neil McCrank, Minister's Special Representative, May 2008.

³ Report of the Auditor General of Canada, Chapter 3—Inuvialuit Final Agreement, October 2007

⁴ Aboriginal Quality of Life under a Modern Treaty – Lessons from the Experience of Cree Nation of Eeyou Istchee and the Inuit of Nunavik, IRPP, August 2008.

2. Evaluation Approach

2.1 Evaluative Requirements

In 1998, a report of the Auditor General of Canada recommended that INAC “perform periodic evaluations of settlement implementation on a timely basis.”⁵ The following year, the Public Accounts Committee recommended that INAC develop an evaluation framework and multi-year plan for land claim evaluations. In 2002, a framework for the evaluation of CLCAs was developed based on extensive consultation. In September 2004, the Treasury Board directed the Minister of Indian Affairs and Northern Development to return with a schedule for the outcome evaluation of all CLCAs that have been in effect for at least 10 years. In 2006 a multi-year evaluation plan was prepared by the Departmental Audit and Evaluation Branch.⁶

This impact evaluation will meet the commitments made to the Auditor General, the Public Accounts Committee and the Treasury Board, as well as support 2010 authority renewal requirements.

2.2 Scope and Timing

CLCAs that were considered for the evaluation had to have at least ten years of implementation experience and not to be in renewal negotiations. The evaluation therefore includes the following four agreements⁷:

- Northeastern Quebec Agreement with the Naskapi (NEQA)
- Inuvialuit Final Agreement (IFA)
- Gwich'in Comprehensive Land Claim Agreement (GCLCA)
- Sahtu Dene and Métis Comprehensive Land Claim Agreement (SDMLCA).

An evaluation assessment was completed in 2007 that identified the anticipated results of the agreements, the issues to be addressed, the indicators to be used to assess progress and the available sources of information. The terms of reference for the evaluation were approved by the Audit and Evaluation Committee in September 2007 with field-work being conducted throughout 2008. An internal INAC steering committee, with input from a separate advisory committee which included Aboriginal signatories, led to a refocusing of the original eight anticipated achievements to the six key issues to be covered by the evaluation.

⁵ Office of the Auditor General of Canada, Chapter 14 – Indian and Northern Affairs Canada – Comprehensive Land Claims, September 1998.

⁶ INAC Departmental Audit and Evaluation Branch, Multi-Year Evaluation Plan: Comprehensive Land Claims Agreements in Place for at Least Ten Years, February 27, 2006.

⁷ Some limited findings are included relating to the Inuit portion of the James Bay and Northern Quebec Agreement (JBNQA) as they were originally included in the evaluation but were unable to participate due to other commitments.

2.3 Evaluation Issues

The evaluation addresses six broad issue areas that correspond to the anticipated outcomes of the agreements.

1. Fulfillment of CLCA terms
2. Clarity and certainty of ownership and access to land and resources
3. Enhancement of working relations among stakeholders
4. Stable, predictable environment for economic development
5. Meaningful and effective voice for Aboriginal people in decision-making
6. Social and cultural well-being in Aboriginal communities

2.4 Methodology

Literature Review

Based on literature from both the private and public sectors, the review was organized into five substantive sections: co-management of environment; land and resources; economic development; promoting self-sufficiency, cultural and social well-being; and, governance and inter-governmental relations.

Development of CLCA profiles

Detailed profiles were developed of the four comprehensive land claim agreements under study and include the ancestry and history of the people in the settlement areas, provisions of the agreements, approaches to implementation and the bodies established to accomplish implementation, as well as key issues that arose in the early years of implementation.

Data Analysis

INAC Comparative Analysis of Community Well-being Measures: INAC's Research and Analysis Directorate has developed measures of well-being in Aboriginal communities which will enable evaluators to assess changes in certain attributes from the years 1981 to 2001, including communities covered by the four CLCAs.⁸ This research element involved three types of analysis:

- Analysis of changes in the individual measures and overall community well-being within individual communities and for settlement areas as a whole, from the years 1981 through 2001;
- Comparative analysis of the target communities against the same measures in Aboriginal communities of a similar size and circumstance, in which comprehensive land claim agreements are not in place; and
- Comparative analysis of the target communities against the same measures in non-Aboriginal communities of a similar size and circumstance.

Government of the Northwest Territories (GNWT) Bureau of Statistics data: Compilation and analysis of GNWT Bureau of Statistics data on a range of subjects including participation in

⁸ Data from the 2006 Census which will allow for this type of analysis, will be available in the spring 2009.

traditional Aboriginal pursuits, knowledge levels of local Aboriginal languages, crime rates and substance abuse rates.

Document/administrative data review

Document and administrative data review included:

- Board and Committee annual reports;
- Data from resource management boards related to applications for land use permits and water licenses and subsequent rulings;
- Data from GNWT and Aboriginal organizations regarding Aboriginal and non-Aboriginal businesses operating in the settlement areas, including joint ventures;
- Annual reports and other reports of Aboriginal political and economic development as well as investment organizations; and
- Reports and descriptive documents from federal government departments, the Quebec government, GNWT and Aboriginal organizations relating to a range of topics including economic development, training and education programs, language and cultural programs, and social services and programs.

Survey of members of land and resource management, environmental review boards

The survey obtained the views of Aboriginal and government land and resource management board members regarding the operations of the boards in relation to the efficiency of licensing and permit processes, the extent to which Aboriginal perspectives are taken into account in board decisions, whether they believe a fair balance is being struck between economic, environmental and resource management interests and the extent and nature of collaboration between Aboriginal and government members.

The survey was conducted in the fall of 2008 and was distributed to 61 board members from 11 different boards. A response rate of 52% was achieved with the responses well distributed across the participating bodies and included responses from all participating boards/committees.

Community meetings

Community meetings were held in Kawawachikamacha for the Naskapi agreement and in Inuvik, Aklavik and Paulutuk for the Inuvialuit agreement. As the meetings were not successful in attracting a sufficient number to represent residents' views on the land claims, they were not continued for the Gwich'in and the Sahtu Dene and Métis agreements, rather the number of key informants were expanded to include community members such as elders, teachers, and social service workers.

Key informant interviews

A total of 216 key informant interviews were conducted with the vast majority taking place on-site.

- *INAC Headquarters* (28 interviews) - Sectors: Treaties and Aboriginal Government; Policy and Strategic Direction; Northern Affairs; Lands and Economic Development; Regional Operations
- *INAC Regions* (10 interviews) – Regions: Quebec and NWT
- *Other Government Departments and Agencies* (16 interviews): Fisheries and Oceans Canada; Environment Canada; Canadian Environmental Assessment Agency; Parks Canada; Natural Resources Canada; Justice Canada; Public Works and Government Services Canada; Transport Canada; Canada Economic Development for the Quebec Regions; Health Canada; Canadian Heritage; Human Resources and Skills Development Canada; and Industry Canada
- *Government of Quebec* (5 interviews): Secrétariat aux affaires autochtones
- *Government of the Northwest Territories* (5 interviews): Aboriginal Affairs and Intergovernmental Relations; Office of Devolution; GNWT Bureau of Statistics, Education, Culture and Employment; Aurora College⁹
- *Government of Yukon* (2 interviews): Environment Yukon; Executive Council Office
- *Aboriginal Group Leadership and Community Members* (132 interviews):

Agreement	Political Leaders/staff	Board members/staff	Elders	Other ¹⁰	Total
Naskapi	7	2	2	17	28
Sahtu	17	7	3	7	34
Gwich'in	14	10	3	7	34
Inuvialuit	11	5	4	16	36
Total	49	24	12	47	132

- *Industry* (18 interviews): Canadian Association of Petroleum Producers; Mining Association of Canada; Canadian Gas Association; Small Explorers and Producers Association of Canada; NWT Chamber of Mines; selected Quebec firms; and, selected NWT firms

⁹ Aurora College is an agency created and funded by the GNWT.

¹⁰ “Other” respondents include business owners, teachers, social workers, long-time Aboriginal residents and former political and business leaders.

2.5 Limitations

The evaluation was limited in its ability to assess the impacts of the land claim agreements due to the following:

- *Limited baseline data:* There was little in the way of baseline data available to use to compare with current measures of progress. Current data and inferences are drawn for comparison purposes and are based on interviews with knowledgeable local residents regarding the circumstances at the time of the agreements.
- *Reliance on key informant interviews as source of data:* To the greatest extent possible, findings from the evaluation are based on multiple sources of evidence and interview findings that are analysed in conjunction with other lines of evidence. There are areas in which the evaluators could not obtain additional data; hence the evaluation finding is derived solely from key informant interviews. The report will identify when a finding is based solely on the opinions expressed by key informants.
- *Accuracy of Census data in remote locations:* There is a commonly held view among Aboriginal leaders in the settlement areas that the data in the more remote communities may be inaccurate due to the lack of participation in the Census. This view is not shared by officials at Statistics Canada or by research officials within the department.
- *Limited analysis of social well-being:* It was recognized that in selecting the Comparative Analysis of Community Well-being Measures as proxies for social health in the settlement areas, the evaluation was being restrictive in its application of measures. Due to scope and time constraints, this approach was agreed to by the steering committee prior to the evaluation being launched.

3. Profile of Four Comprehensive Land Claim Agreements

3.1 Northeastern Quebec Agreement with the Naskapi (NEQA)

Settlement area: 1,165,286 km²

Settlement lands: 326.8 km² Category I Lands (Naskapi-owned); 4,144.0 km² Category II Lands (exclusive rights); 1 million km² Category III Lands (rights shared with Cree and Inuit)

Date settled: NEQA (January 31, 1978); Cree-Naskapi (of Quebec) Act (June 14, 1984); NEQA Implementation Agreement (September 13, 1990)

Population: (2007) 809 beneficiaries

Communities: Kawawachikamach

Financial settlement: Capital transfer of \$9 million to be paid over a maximum of 12 ½ years depending on the size of annual revenue shares from Hydro Quebec; supplemental capital transfer of \$1.7 million in 1990; an additional capital transfer of \$0.9 million in 1997 for economic development.

Background to agreement

The James Bay and Northern Quebec Agreement (JBNQA) was signed in 1975 by the governments of Canada and Quebec, the Crees and Inuit of Northern Quebec, the James Bay Energy Corporation, the James Bay Development Corporation and Hydro-Quebec. The Naskapi were former inhabitants of areas of land under the agreement and sought, but could not obtain, involvement in the JBNQA negotiations. The parties to the JBNQA recognized the legitimacy of the Naskapi claim and entered into negotiations which led to the signing of the Northeastern Quebec Agreement (NEQA) on January 31, 1978. This agreement made the Naskapi party to the major provisions of the JBNQA.

There was no implementation plan as part of the NEQA, however, the decision of the Iron Ore Company of Canada to close its mining operations in 1982 near Schefferville had profound implications for the implementation of the NEQA, particularly concerning the provisions dealing with health, social services, training and job creation. The change in circumstances in Schefferville prompted the Naskapi and the Government of Canada to undertake a joint evaluation of Canada's responsibilities under NEQA in the late 1980s. Those negotiations led to

the signing of *An Agreement Respecting the Implementation of the Northeastern Quebec Agreement* on September 13, 1990.

Objectives of the agreement

No broad objectives were identified as a preamble to the NEQA as was the case for the other three agreements under study. Various sections of the agreement made reference to the purpose of specific measures.

Lands Recognized

The total NEQA settlement area is the same as that of the JBNQA - 1,165,286 km². The Naskapi received 326.8 km² of Category I lands and 4,144 km² of Category II lands. The remaining 1,000,000 km² are identified as Category III lands which are shared with the Inuit and Cree.

Rights Recognized

The Naskapi exchanged their claims, rights and territorial interests for other rights and benefits, as specified in the agreement. These included participation in an environmental and social protection regime; economic development; hunting, fishing and trapping rights; as well as the creation of regional public institutions under the jurisdiction of the Quebec government related to education and health services.

Naskapi hunting, fishing and trapping rights vary according to the category of land. Category I lands are for the exclusive use of the Naskapi, and also hold their primary residence of Kawawachikamach. Category II lands are under provincial jurisdiction, but the Naskapi have exclusive hunting, fishing and trapping rights and the power to participate in the management of hunting, fishing and trapping operations. Category III lands are shared with the Inuit and Crees and provide the Aboriginal groups the exclusive right to harvest certain aquatic species and fur-bearing mammals as well as to participate in the administration and development of this land area. The Quebec government, the James Bay Energy Corporation, Hydro-Quebec and the James Bay Development Corporation have specific rights to develop resources on Category III lands, subject to impact assessments by the federal and provincial governments.

The governments of Quebec and Canada both provide compensation funds to the Naskapi that are administered by the Naskapi Development Corporation to support economic development in Kawawachikamach.

Implementation

In 1984 the Parliament of Canada passed the *Cree-Naskapi (of Quebec) Act* to implement the JBNQA and NEQA provisions for local government of communities. This Act provided for the setting up and operation of a Cree-Naskapi Land Registry as well as a Cree-Naskapi Commission. There was no implementation plan included in the original agreement, but in 1990 such an agreement was reached.

The 1990 NEQA Implementation Agreement detailed how Canada would discharge its responsibilities under the agreement by means of the following:

- Creating an Interdepartmental Committee to serve as a channel for communication between the various federal departments and the Naskapi entities involved in matters related to the NEQA;
- Establishing a dispute resolution mechanism;
- Providing capital, operations and maintenance funding; and
- Establishing a working group (Canada and Naskapi) to study ways and means of increasing Naskapi employment.

The JBNQA and NEQA provide for consultative bodies to consult with the provincial and federal governments. The Naskapi have two representatives on the Hunting, Fishing and Trapping Coordinating Committee. Representatives of the Kativik Regional Government, which has Naskapi members, sit on the Kativik Environmental Quality Commission, the Kativik Environmental Advisory Committee and the Federal Review Panel North. To date no Naskapi representative have sat on these bodies, in addition, the Naskapi Education Committee was set up to advise on the running of the school in Kawawachikamach, with 75% of the funding contributed by the government of Canada.

Self-government

No self-government provisions are included in the agreement.

Financials

The 1978 NEQA provided the Naskapi people with \$9 million and treaty settlement lands, rights and benefits. The NEQA Implementation Agreement (signed September 13, 1990) gave the Naskapi a further one-time payment of \$1,639,840.

The Naskapi continue to receive ongoing funding via a capital grant \$1,448,400 (07/08) which is inflation adjusted in accordance with the approved growth applied to the Indian and Inuit programming portion of INAC's budget. The Naskapi Capital Funding Agreement is in effect from April 1, 2005 to March 31, 2010 and covers various capital projects in Kawawachkamach.

Naskapi also receive an ongoing O&M grant of \$5,140,233 (07/08) which is population and Final Domestic Demand Implicit Price Index (FIDDIPI) adjusted. The Naskapi Operations and Maintenance Funding Transfer Payment Agreement is also in effect from April 1, 2005 to March 31, 2010. This agreement is for local government services provided by the Naskapi Nation of Kawawachikamach.

3.2 Inuvialuit Final Agreement (IFA)

Settlement area: 13,000 km² surface and sub-surface rights; 77,700 km² surface rights

Settlement lands: 6 blocks of 1,800 km² around each community; 2,070 km² in Cape Bathurst area; surface title to 77,700 km² of land

Date settled: June 5, 1984

Population: (2007) 3,812 participants¹¹

Communities: Aklavik, Holman, Inuvik, Paulatuk, Sachs Harbour and Tuktoyaktuk

Financial settlement: Capital transfer of \$78 million (1984 \$) in scheduled payments over 15 years starting in 1984; a one-time \$10 million transfer in 1984 (economic enhancement fund); a one-time \$7.5 million transfer in 1984 (social development fund).

Background to the agreement

In the Yukon and Northwest Territories, lands and non-renewable resources fall under federal jurisdiction, however, territorial governments have jurisdiction over some renewable resources and participate fully in the negotiations and the application of the land claims policy.

The Inuvialuit had never signed a treaty with Canada though in the 1970s, the Inuvialuit did establish an organization called the Committee for Original People's Entitlement (COPE) in order to have a collective voice in deciding their future. The Inuvialuit, through COPE, made a formal request to the Government of Canada for land claim and self-government negotiations. The Inuvialuit claim was accepted for negotiation on May 13, 1976. The Government of Canada and COPE signed the Inuvialuit Final Agreement (IFA) on June 5, 1984. It was the first comprehensive land claim agreement signed north of the 60th parallel and the first outside Quebec.

Objectives of the agreement

The basic goals expressed by the Inuvialuit and recognized by Canada in concluding the agreement are:

- 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.

¹¹ Inuvialuit eligible for benefits under the IFA are referred to as “participants” rather than “beneficiaries”.

As with all land claim agreements, there are other objectives established for certain specific measures.

Lands Recognized

The Inuvialuit were granted surface and subsurface title to 13,000 km² of land: six blocks of 1,800 km² around the communities of Aklavik, Holman, Inuvik, Paulatuk, Sachs Harbour and Tuktoyaktuk, as well as 2,070 km² in the Cape Bathurst area. In addition, the Inuvialuit were granted surface title to 77,700 km² of land selected throughout the Inuvialuit Settlement Region (ISR). The Inuvialuit, through the Inuvialuit Land Corporation, hold title to these lands though they must honour existing rights such as leases. In cases where the Inuvialuit own the subsurface rights, they receive the proceeds from any resource development in those areas. The settlement lands do not include the actual sites of the communities, which vary in size from 3.9 to 13 km².

Rights Recognized

The agreement gives the Inuvialuit certain rights and benefits in exchange for their agreement to extinguish their interests based upon traditional land use and occupancy. It includes wildlife harvesting rights, socio-economic initiatives and participation in wildlife and environmental management.

Implementation

The IFA did not include an implementation plan as it pre-dated the 1986 policy, which calls for implementation plans to accompany land claim agreements. In 1986 an implementation coordinating committee was established that included the Inuvialuit, Government of Canada, Government of Yukon and Government of the Northwest Territories. This committee functioned and produced annual reports until 1989 and then became inactive. In 1999 the same parties agreed to re-establish the IFA Implementation Coordinating Committee. The Committee continues to monitor the fulfilment of ongoing obligations of the parties which are contained in the agreement and produces annual reports.

As part of implementation, the agreement established various Inuvialuit corporations to manage finances, economic development and social and cultural matters on behalf of the Inuvialuit people, including:

- Inuvialuit Regional Corporation (IRC) – composed of six community corporations from the Inuvialuit communities of Aklavik, Holman, Inuvik, Paulatuk, Sachs Harbour and Tuktoyaktuk;
- Inuvialuit Land Corporation and Inuvialuit Land Administration;
- Inuvialuit Investment Corporation, Inuvialuit Development Corporation, Inuvialuit Petroleum Corporation; and
- Inuvialuit Game Council.

Self-government agreements

A self-government process began in 1993 with the establishment of an agreement between the Inuvialuit and Gwich'in to negotiate a regional public government for the Beaufort Delta Region. By March, 2005, the Gwich'in Tribal Council decided not to participate in the process though the Inuvialuit continued negotiations with the federal government. On May 30, 2007, the Government of Canada, the Government of the Northwest Territories and the Inuvialuit Regional Corporation signed the Inuvialuit Self-Government Process and Schedule Agreement as a basis for carrying on negotiations under the existing Agreement-in-Principle, which was negotiated jointly with the Gwich'in. This process is intended to work toward a final agreement that respects section 4(3) of the IFA to implement the inherent right of self-government for the Inuvialuit.

Financial terms

Under the financial terms of the agreement, the Inuvialuit received a tax-free capital transfer of \$78 million (in 1984 dollars) which was payable over 14 years. They also received a one-time payment of \$10 million toward an economic enhancement fund and \$7.5 million to a social development fund. Canada set off against the initial amount of capital transfer payable to the Inuvialuit Development Corporation the amounts of the interest free loans owing by the Corporation to repay a little over \$9.6 million in negotiation loans advanced by Canada since the execution of the Agreement-in Principle.

While the IFA, unlike more recent land claim agreements, does not have an implementation plan, the two parties to the claim - Canada and the Inuvialuit - as well as the Government of the Northwest Territories (GNWT) and Yukon Government, have agreed to a general list of implementation tasks that will be funded by the federal government. Funding for the implementation of the IFA has been renewed every five years since 1994 when current funding levels were established. Every year the base amount is multiplied by the FDDIPI number that is allocated for April 1st. In 2007-08 the Inuvialuit received \$1,907,861.00.

3.3 Gwich'in Comprehensive Land Claim Agreement (GCLCA)

Settlement area: 57,000 km² in the Mackenzie Delta Region of the NWT and 1,554 km² in the Yukon

Settlement lands: Total of 22,422 km²: 16,264 km² fee simple land, 6,065 km² land with mineral and surface rights; 93 km² only mineral rights

Date settled: April 22, 1992

Population: (2007) 2,500 beneficiaries

Communities: Aklavik, Fort McPherson, Inuvik and Tsiigetichic

Financial settlement: Capital transfer of \$75 million to be paid over 15 years starting in 1992. Annual share of resource royalties from development in the settlement area equal to 7.5% of the first \$2 million received by the federal government that year, and 1.5% of any additional royalties; a one-time training fund of \$761,000.

Background to the agreement

The Gwich'in Comprehensive Land Claim began as an integral part of the Dene/Métis Comprehensive Land Claim, involving the entire Mackenzie Valley south of the coastal Inuvialuit area. Though a final agreement had been initialled by the parties in April 1990, the joint Dene/Métis assembly had called for the renegotiation of fundamental elements of the agreement prior to the final agreement being signed. This renegotiation was not supported by the Mackenzie Delta Tribal Council or the representatives of the Sahtu Dene and Métis. Canada would not agree to renegotiate the initialled agreement and discontinued the Dene/Métis claim. Prompted by the request of both the Mackenzie Delta Tribal Council (the Gwich'in) and the Sahtu Tribal Council for regional claim settlements, Canada had agreed to negotiate towards a regional settlement of the claim on the basis of the April 1990 agreement, with any of the five Dene/Métis regions who had requested one.

In August 1990, the Gwich'in of the Delta region withdrew their negotiating mandate from the Dene/Métis leadership and requested Canada to negotiate a regional settlement on the basis of the April agreement. Negotiations with the Gwich'in began in November 1990 and the GCLCA was ratified by the Gwich'in in September 1991 and was approved by the federal government and the Government of the Northwest Territories in March 1992.

Objectives of the agreement

The GCLCA has the following broad objectives as set out in the first section of the agreement:

- To provide for certainty and clarity of rights to ownership and use of land and resources;

- To provide the specific rights and benefits in the agreement in exchange for the relinquishment by the Gwich'in of certain rights claimed in any part of Canada by treaty or otherwise;
- To recognize and encourage the Gwich'in way of life which is based on the cultural and economic relationship between the Gwich'in and the land;
- To encourage the self-sufficiency of the Gwich'in and to enhance their ability to participate fully in all aspects of the economy;
- To provide the Gwich'in with specific benefits, including financial compensation, land and other economic benefits;
- To provide the Gwich'in with wildlife harvesting rights and the right to participate in decision making concerning wildlife harvesting and management;
- To provide the Gwich'in the right to participate in decision making concerning the use, management and conservation of land, water and resources;
- To protect and conserve the wildlife and environment of the settlement area for present and future generations; and
- To ensure the Gwich'in the opportunity to negotiate self-government agreements.

Other objectives have been identified in relation to specific measures in the agreement.

Lands Recognized

The agreement provides for a 57,000 km² settlement area within the Mackenzie Delta Region of the NWT and a 1,554 km² area within the Yukon which is not part of the settlement area. The agreement provides fee simple title, or private ownership, of the surface of 16,264 km² of land, another 6,065 km² that include mineral rights and 93 km² of land with only mining and mineral rights, for a total of 22,422 km² under Gwich'in title.

Rights Recognized

In their settlement area, the Gwich'in have extensive and detailed wildlife harvesting rights, guaranteed participation in decision-making structures to be established for the management of wildlife and the regulation of land, water and the environment, and rights of first refusal to a variety of commercial wildlife activities. They also receive a portion of annual resource royalties in the Mackenzie Valley.

The Gwich'in have exchanged certain rights established in Treaty 11 for defined land claim benefits. The hunting, fishing and trapping rights under the Treaty are relinquished within the settlement area, the Western Arctic Region, the treaty area east of the Western Arctic Region, and the Yukon where they are replaced by provisions of the land claim agreement. If Dene/Métis in other areas of the Mackenzie Valley settle their land claims, the Gwich'in will automatically surrender treaty harvesting rights in these areas. Treaty rights, which were not specifically given up in the agreement continue to exist and include annual treaty payments and education.

Implementation

The GCLCA was the first agreement signed since the federal government established its 1986 comprehensive claims policy, which required that final agreements be accompanied by implementation plans. The GCLCA provides for the creation of an Implementation Committee, consisting of three senior officials that each represent the Government of Canada, the Government of the Northwest Territories and the Gwich'in Tribal Council. This committee operates on a consensus basis to provide direction and to monitor the status of the implementation plan while attempting to resolve any implementation disputes. The committee is also responsible for providing annual reports to the Minister of Indian and Northern Affairs to conduct a general review of implementation in its fifth year and to conduct a broad review in preparation for negotiation of a follow-up implementation plan in its tenth year.¹²

The agreement designates the Gwich'in Tribal Council as the primary Gwich'in organization with the authority to create designated bodies to manage finances, land administration, investments, economic development and social and cultural affairs. The Tribal Council remains the central Gwich'in body for implementing the agreement. The agreement establishes regulatory and advisory bodies at the regional and community levels in order to manage land and resource and environmental issues.

Self-government

The GCLCA provides for the process of negotiating self-government, which had begun with the 1993 agreement between the Inuvialuit and Gwich'in to work together to negotiate a regional public government for the Beaufort Delta Region. The resulting Agreement-in-Principle for self-government was signed in April 2003 by the Government of Canada, the Government of the Northwest Territories, the Inuvialuit Regional Corporation and the Gwich'in Tribal Council.

In March 2005, the Gwich'in Tribal Council decided not to participate in the joint process with the Inuvialuit and by the winter of 2006, had set up their own self-government team and had sent a formal letter to the Minister of INAC with a request to proceed with negotiations without the Inuvialuit. The Gwich'in self-government committee has continued to negotiate the structure of the self-government and community constitutions.

Financials

Under the financial terms of the agreement, the Gwich'in received a tax-free capital transfer of \$75 million (1990 dollars) from the Government of Canada, which was paid annually over a 15-year period, as well as an annual share of resource royalties equal to 7.5% of the first \$2 million received by the federal government that year and 1.5% of any additional royalties. The Gwich'in Tribal Council agreed to repay to Canada over \$8 million in negotiation loans over 13 years and to pay 15 % of the negotiation loans incurred by the Dene Nation and the Métis Association of the Northwest Territories between 1975 and November 7, 1990.

¹² INAC, 1999. *Five-Year General Review of the Gwich'in Implementation Plan December 22, 1992 - December 21, 1997*, 1999.

In 2003, a renewed implementation plan for the second ten-year implementation period was developed and finalized by the three parties to the Agreement. Every year the base amount is multiplied by the FDDIPI number that is allocated for April 1st. In 2007-08 the Gwich'in received \$6,637,890.00.

3.4 Sahtu Dene and Métis Comprehensive Land Claim Agreement (SDMLCA)

Settlement area: Sahtu Settlement Area is 280,238 km² in the Mackenzie Valley and Great Bear Lake region of the Northwest Territories.

Settlement lands: Title is granted for 41,437 km² of which 1,813 km² includes subsurface rights.

Date settled: September 6, 1993

Population: (2007) 2,500 beneficiaries

Communities: Colville Lake, Deline, Fort Good Hope, Norman Wells and Tulita

Financial settlement: Capital transfer of \$75 million to be paid over 15 years starting in 1993. Annual share of resource royalties from development in the settlement area equal to 7.5% of the first \$2 million received by the federal government that year, and 1.5% of any additional royalties; a one-time training fund of \$850,000.

Background to agreement

In September 1990, the Sahtu Dene and Métis withdrew their authorization for the Dene/Métis to represent them in the broad NWT agreement that had been negotiated, as with the Gwich'in, and requested a regional settlement. In July 1993, the Sahtu Dene and Métis approved the Sahtu Dene Métis Comprehensive Land Claim Agreement and after ratification, the agreement was approved by the Government of Canada and the Government of the Northwest Territories and was signed on September 6, 1993.

Objectives of the agreement

The SDMLCA has the following broad objectives as set out in the first section of the agreement:

- To provide for certainty and clarity of rights to ownership and use of land and resources;
- To provide the specific rights and benefits in the agreement in exchange for the relinquishment by the Sahtu Dene and Métis of certain rights claimed in any part of Canada by treaty or otherwise;
- To recognize and encourage the Sahtu Dene and Métis way of life which is based on the cultural and economic relationship between the Sahtu Dene and Métis and the land;
- To encourage the self-sufficiency of the Sahtu Dene and Métis and to enhance their ability to participate fully in all aspects of the economy;
- To provide the Sahtu Dene and Métis with specific benefits, including financial compensation, land and other economic benefits;
- To provide the Sahtu Dene and Métis with wildlife harvesting rights and the right to participate in decision making concerning wildlife harvesting and management;

- To provide the Sahtu Dene and Métis the right to participate in decision making concerning the use, management and conservation of land, water and resources;
- To protect and conserve the wildlife and environment of the settlement area for present and future generations; and
- To ensure the Sahtu Dene and Métis the opportunity to negotiate self-government agreements.

Other objectives are identified in relation to specific measures within the agreement.

Lands Recognized

The Sahtu Settlement Area (SSA) is 280,238 km² in the Mackenzie Valley and Great Bear Lake region of the Northwest Territories. The agreement provides the Sahtu Dene and Métis with title to 41,437 km² of land which includes 1,813 km² of subsurface rights.

Rights Recognized

The Sahtu Dene and Métis have exchanged certain rights established in Treaty 11 for the rights spelled out in the agreement regarding wildlife harvesting. The agreement confirms hunting and fishing rights of the Sahtu Dene and Métis throughout the SSA and establishes their exclusive trapping rights. The Sahtu Dene and Métis are guaranteed participation in institutions of public government for renewable resource management, land use planning, and land and water use in the SSA as well as participation in environmental impact assessments and reviews in the Mackenzie Valley. Their participation is through membership on public government boards and through consultation.

Implementation

The Sahtu Dene and Métis Agreement provides for the creation of an Implementation Committee, consisting of three senior officials that each represent the Government of Canada, the Government of the Northwest Territories and the Sahtu Tribal Council. This committee operates on a consensus basis to provide direction and monitor the status of the implementation plan while attempting to resolve any implementation disputes. The committee is also responsible for providing annual reports to the Minister of Indian and Northern Affairs to conduct a general review of implementation at year five and to conduct a broad review in preparation for negotiation of a follow-up implementation plan at year 10.¹³

The agreement designates the Sahtu Tribal Council as the primary Sahtu organization with the authority to create designated bodies to manage finances, land administration, investments, economic development and social and cultural affairs. The Sahtu subsequently established the Sahtu Secretariat Incorporated (SSI) as their main implementation body, governed by representatives of seven land corporations within their five communities with two of the communities having separate Métis land corporations in addition to the Sahtu corporations. The

¹³ INAC, *Five-Year General Review of the Sahtu Implementation Plan June 23, 1994 – June 22, 1999, 2000.*

agreement establishes regulatory and advisory bodies at the regional and community levels that manage land and resource and environmental issues.

Self-government

The agreement provides for negotiation of self-government agreements to be brought into effect through federal and/or territorial legislation. The communities in the Sahtu area are at different stages of the negotiation process. The community of Deline was the first, in 1996, to pursue a self-government agreement and is close to concluding its agreement. The negotiations for a Norman Wells agreement began in the fall of 2005 and are nearing completion. Self-government negotiations for Tulita began in 2003 and a Final Agreement is expected to be completed before 2011. Fort Good Hope and Colville Lake have formally requested to begin self-government negotiations.

Financials

Under the financial terms of the agreement, the Sahtu received a tax-free capital transfer of \$75 million (1990 dollars) from the Government of Canada, paid annually over a 15-year period, as well as an annual share of resource royalties equal to 7.5% of the first \$2 million received by the federal government that year and 1.5% of any additional royalties. The Sahtu Tribal Council agreed to repay the Canadian Government over \$10.8 million in negotiation loans, over 15 years, as well as to pay 15 % of the negotiation loans incurred by the Dene Nation and the Métis Association of the Northwest Territories between 1975 and November 7, 1990.

In 2004-05, after ten years of implementation activities, the implementation plan for the Sahtu Dene and Métis Agreement was renewed for a further 10 years. Every year the base amount is multiplied by FDDIPI number that is allocated for April 1st. In 2007-08, the Sahtu received \$3,209,630.26 to carry out their obligations in the agreement.

4. Evaluation Findings – Impact of Comprehensive Land Claim Agreements

The impacts of the four comprehensive land claim agreements under study are organized to correspond to the six issue areas.

1. Fulfillment of CLCA terms
2. Clarity and certainty of ownership and access to land and resources
3. Enhancement of working relations among stakeholders
4. Stable, predictable environment for economic development
5. Meaningful and effective voice for Aboriginal people in decision-making
6. Social and cultural well-being in Aboriginal communities

4.1 Fulfillment of CLCA Terms

The four land claim agreements were all centred on the recognition and clarification of rights to land to the Aboriginal signatories and the designation of larger areas of land as being within the settlement area and affording the Aboriginal signatories special access and land and resource rights within those lands. In addition, each agreement included the transfer of funds from the federal government to the Aboriginal signatories. The agreements all prescribed the establishment of governance, administrative and financial bodies by the Aboriginal signatories and the creation of new land and resource co-management boards, as well as committees to manage land and resources in the settlement areas and manage the implementation of the agreements.

The evaluation examined the extent to which these essential elements of the agreements have been fulfilled. Results from the evaluation conclude that:

- The terms of agreements have been fulfilled with respect to the transfer of funds and the recognition of rights to land, but issues remain regarding the level of ongoing funding and the nature of federal responsibilities related to the implementation bodies prescribed by the agreements.
- The prescribed land and resource management boards and committees have been established in a timely fashion and are widely viewed as operating well, though some settlement areas have experienced difficulty at times in retaining board and committee members as well as maintaining an adequate level of capacity among members. The decentralized nature of some boards especially in the Sahtu and Gwich'in areas means that expertise and expenses are not easily shared among boards. Attracting and keeping highly skilled personnel (engineers, managers, resource and environmental expertise) will likely be an ongoing struggle in very small and remote communities.

- There is a perception among Aboriginal officials that the federal government is primarily interested in addressing the letter of the agreements and not the true spirit and intent, resulting in barriers to progress. From this perspective the objectives of the agreements have not yet been reached, though funds have been transferred, rights to land recognized and bodies established as agreed.

Funds transferred

Land claim agreements include capital payment schedules which are negotiated as part of the overall negotiations leading to settlement. The Government of Canada transfers the capital funds under a statutory grant regime according to each agreement's schedule. No concerns were identified regarding the payment process, including timeliness, from the perspectives of the federal government or Aboriginal organization recipients. The Auditor General confirmed this finding, in the Inuvialuit context, in her 2007 October report.¹⁴ Based on interviews with Aboriginal representatives, it is clear that the same conclusion applies to all four agreements which are being evaluated.

While this evaluation does not focus on implementation issues, concerns were raised regarding the level of ongoing implementation funding. Concerns were raised primarily regarding INAC's funding of land and resource management boards established under the agreements but also with funding from other departments and agencies for research and for the operations of certain implementation bodies in the Inuvialuit region. As funding is re-negotiated every several years, there have been concerns noted by Aboriginal signatories and echoed by the Auditor General of Canada about the lack of clarity over what specific obligations the federal government has under the agreements and implementation plans and the lack of clarity over which departments or agencies have responsibilities for and systematic ways to ensure that obligations are being met.¹⁵ More recently, there is concern that implementation funding is not sufficient to allow board budgets to keep up with inflation and rising costs, especially rising fuel costs and the costs associated with substantial and unpredicted increases in the numbers of development applications which require action from the boards.

From INAC's perspective this issue is addressed through the implementation plan renewal process which takes place in 10 year intervals. In addition to renewals, there are established processes within each agreement where the parties can access additional funding should the need arise, and these processes have been triggered successfully numerous times. However, the evaluation found that most federal and territorial governments and Aboriginal officials interviewed for the evaluation do not believe funding levels are adequate to enable most boards to function as fully as intended.

¹⁴ Auditor General of Canada, 2007.

¹⁵ In its 2007 October report on the subject of the implementation of the Inuvialuit Final Agreement, the Auditor General "found that INAC had neither formally identified which obligations were Canada's responsibilities nor which federal organizations were responsible for their implementation." Auditor General of Canada, 2007.

Although the amount of implementation funding may be in dispute in some cases, particularly in the NWT settlement areas, there have been improvements in the process whereby the funds are transferred. Historically, the process of transferring funds to Aboriginal groups, the Government of the Northwest Territories and the various boards was inefficient, according to Aboriginal and GNWT officials, due to federal budget cycles and Treasury Board policies which limited the boards' abilities to carry funds over from one year to the next. In the late 1990s, INAC began using a special contribution payment, whereby the recipient bodies could carry over funds after March 31st each year. This was a significant improvement for Aboriginal groups and boards because it allows them to properly plan for activities without the constraints of the federal budgetary cycle. All funding recipients must provide INAC with work plans and regular reports regarding the use of implementation funds. In accordance with Treasury Board Policy on Transfer Payments, INAC does not flow the money until agreements and reports are in place and agreed on. However, the ability of boards to meet these requirements varies, which can prove problematic in terms of cash flow. INAC works closely with the boards to assist in meeting work plan and reporting requirements but board capacity and staffing issues can hamper the process.

Land title

Land title transfers are completed according to the terms of individual agreements. Respondents representing Aboriginal organizations and governments indicated that the Registrars of Land Titles have worked effectively in formally transferring lands in all four claim areas. However, surveys required for land transfers have sometimes been delayed resulting in delays of land transfers. Surveys regarding settlement lands are the responsibility of Natural Resources Canada (NRCan). These delays have not appeared to result in disputes, although they have caused frustration for Aboriginal groups in the NWT and for the Naskapi in Northeastern Quebec.

Among the four agreements covered in this evaluation, the Inuvialuit Final Agreement (IFA) is the single case involving more serious complications, as indicated in documents reviewed for the evaluation and in the Auditor General's October 2007 report¹⁶, and as acknowledged by INAC and GNWT officials. The IFA includes clauses obliging the federal Crown to exchange lands with the Inuvialuit to offset certain lands the Crown wanted to maintain within the settlement area for various purposes, as well, the Crown is obliged to return parcels of land that it maintains once those lands are no longer needed (e.g., National Defence sites for the Distant Early Warning System). The Auditor General found that, of 20 parcels being used by the Crown at the time of the agreement, 13 were subsequently no longer needed by the Crown. Despite requests from the Inuvialuit, none of these parcels were returned until 2008, reportedly due to delays by NRCan in surveying the affected parcels. These disputed parcels represent less than 1% of total IFA land. There are no remaining disputed parcels of land.

Land and resource management boards and committees established

Respondents generally view the establishment of land and resource management boards and committees as a positive result of land claim settlements. However, there have been instances where the enabling federal or territorial legislation was not in place to allow the establishment of a board. The Surface Rights Boards have not been put in place in the Gwich'in and the Sahtu

¹⁶ Auditor General of Canada, 2007.

regions due to the absence of relevant legislation. To date, this absence has not been problematic. There is however variation among claimant groups in terms of the overall effectiveness and ability to maintain full membership on the various boards and committees. Typically the nomination of board members is shared between INAC, the territorial/provincial government and the Aboriginal body with overarching responsibility. For some groups, notably the Gwich'in and Sahtu, the timeliness in appointments by the Minister for their nominations has reportedly been problematic and in some cases the Aboriginal parties have been slow to nominate new members. According to INAC and Aboriginal officials, the Gwich'in and the Sahtu occasionally face difficulty finding suitable individuals to nominate for membership on boards/committees. This problem is exacerbated by a high rate of turnover among board and committee members.

The lack of adequate funding, particularly core funding, is often cited as a major problem, most notably by Aboriginal respondents although government officials also acknowledged the issue. Lack of funding is seen as a reason for the inability of boards and committees to do the training and development work required to raise their members to higher skill levels. Inadequate funding is also seen to apply to staff shortages, including administrative and research staff, for boards/committees.

While problems limiting the full operation of the boards and committees were identified, most respondents cited the establishment of boards and committees as one of the more important successes of the comprehensive land claims process. The one exception is the NEQA, where the Naskapi consider that while the boards were established as intended, the make-up of the boards leaves them under-represented and therefore unable to adequately protect their interests.

Aboriginal entities to manage land and fund transfers established

The evaluation found evidence that the establishment of bodies to manage land and fund transfers has had mixed results. The Inuvialuit and the Naskapi have succeeded in this regard as they have established the management bodies stipulated in their agreements and these bodies continue to function efficiently. The Gwich'in and the Sahtu, while they have established governing bodies to manage land and fund transfers, are seen by outside observers and in several cases members of their own leadership, to have continuing problems due to unclear mandates and lack of capacity. Various explanations were given for the different rates of success.

- The Gwich'in and the Sahtu are said to be negatively affected by many years under the *Indian Act*, whereas the groups not under the *Indian Act* were able to maintain their community and cultural integrity more effectively.
- There is a preference among the Sahtu for each community to see itself as unique instead of as a part of a larger, coordinated whole. Sahtu leaders view this as a strength because it means that people residing in communities are more involved in making decisions that affect their lives. They acknowledge that there is a price to be paid in terms of the facility of coordination and the pace of development, but they consider it a price worth paying.
- Inadequate supportive funding is seen by most Aboriginal respondents and a few federal officials, as contributing to an ongoing lack of capacity to manage land and fund

transfers. The funding issue is also viewed by the Aboriginal leaders and government observers as affecting the ability of groups, especially the Gwich'in and the Sahtu, to hire professional expertise to help in management and planning.

The Gwich'in and Sahtu leaders take the position that the Gwich'in Tribal Council and the Sahtu Secretariat have found that under the terms of the agreement they have to meet a wide array of increased governance-related responsibilities, for which no targeted funding is available aside from the land claim transfer. Band support funding covers functions that existed prior to the agreements and therefore is not viewed as contributing to the new responsibilities. The result is that they are unable to function as effectively as they should in protecting the interests of their people and in fostering sustainable economic and social development. Under the *Indian Act*, both groups receive core funding for a variety of functions and for administrative costs. However, they point to the fact that their responsibilities have increased and become much more complex under the land claim agreements, so the net effect is to leave them less able to lead effectively. Naskapi leaders also indicated that, while land and funding transfers have taken place as planned and as structures have been established as intended, overall government financial commitment to support economic and social development has been weak. This is viewed as indicative of a lack of federal commitment to help achieve the long-term goals of the agreements.

4.2 Clarity and Certainty of Ownership and Access to Land and Resources

One of the primary impetuses for the negotiation of the land claims agreements was the desire to establish an environment that was more conducive to resource development and other economic development opportunities, while protecting the interests of the Aboriginal people making claim to the settlement areas. Key to this was a greater degree of clarity and certainty as to the ownership of land and access to land and resources. An environment of greater certainty as to ownership and access was intended to reduce the risk associated with legal challenges and facilitate investment. Results from the evaluation conclude that:

- The land claim agreements have succeeded, with minor exceptions, in establishing clarity and certainty regarding land ownership and access.
- There have been several lawsuits filed in the JBNQA and NEQA settlement regions by non-beneficiaries, but no other legal challenges associated with land ownership and access or resource-related rights.
- Formal dispute resolution bodies have rarely been used to settle land ownership and access issues and there have been few informal disputes.
- Three issues related to land use that arose early on in the Inuvialuit Settlement Region have been settled after lengthy delays.
- Information on land ownership and access is readily available and industry has been informing itself and responding positively to the new circumstances, however, there remains some lack of clarity with regard to ownership and access among residents in the NWT settlement areas.

Clarity and certainty

There is a consensus among the vast majority of those consulted for this evaluation that clarity and certainty regarding ownership and access to land and resources, while not absolute, have been achieved in the agreements. When issues arise, they are more likely to be between Aboriginal groups and the federal government, not industry. Issues typically relate more to variances in interpretation, specific land use and access, or government procurement disputes as opposed to a lack of clarity. Industry is seen to be working to ensure that they understand ownership and regulations governing access in order to maintain good relations with Aboriginal people in the settlement areas.

Legal challenges

Findings from the evaluation conclude that specific concerns related to land ownership and access do not generally result in legal challenges. There are, however, exceptions including

several lawsuits that were filed in 2003 by non-beneficiary Aboriginal groups in the JBNQA and NEQA settlement areas. The issues for the Aboriginal groups involved in the legal challenge include having their rights to claim extinguished along with the JBNQA and NEQA beneficiaries, even though their communities are not within either settlement area and they did not receive settlement benefits; losing their Aboriginal rights but not sharing in the benefits flowing from the agreements to the Cree, Inuit and Naskapi; as well as not being included in the negotiations leading to the JBNQA or the NEQA and therefore not being able to negotiate to preserve or pursue their rights. All but one of these lawsuits have been withdrawn, suspended or put in abeyance.

The Innu in Schefferville are currently seeking negotiations with the Inuit and Cree under the JBNQA and the Naskapi Nation to establish, within the Aboriginal groups, an agreed-upon territory representing the Innu traditional grounds. The intention is to seek formal negotiation with the Quebec and federal governments to reach an agreement that integrates Innu rights into the larger scheme of Aboriginal title and rights in northern Quebec. At the present time, the Innu leaders are frustrated at the lack of willingness of the Quebec and federal governments to revisit the issue of Innu claims that overlap with territories under the JBNQA and the NEQA. However, the Comprehensive Land Claim Policy states that overlapping claims need to be settled among the claimant parties before disputed land can be included in an agreement.

While these matters do not currently have impact on clarity and certainty in law, they do have the potential to raise complications for Aboriginal and non-Aboriginal business interests in the area. If the courts are required to rule on Innu and other overlapping claims, or if dissatisfied Aboriginal parties adopt disruptive strategies to protest their claims, resource development investment may be discouraged.

Dispute resolution bodies

The implementation committees for the Inuvialuit, Gwich'in and Sahtu are the first forum for the resolution of issues. If issues cannot be resolved by the committees, the possibility exists of referral to other forms of dispute resolution including arbitration. Most agreements call for parties to consent to binding arbitration, with the exception of the IFA which allows any party to bring forth the issue.

Formal dispute resolution bodies have rarely been used to settle land ownership and access issues under these agreements. The main reason that arbitration has rarely been used is that the provisions of the agreements, in their legal interpretation at least, have been fulfilled, or agreement have been reached on an approach to fulfilling them.

The Naskapi report no disputes appropriate for arbitration, but have a serious concern with the contamination of several land sites in their settlement area as a result of past mining exploration projects. Under the agreement, clean-up of these sites is the responsibility of the provincial government and the Quebec government has funded a study to identify potential contaminated sites, though Naskapi leaders report delays with addressing this problem.

Since the Inuvialuit are able to refer issues to arbitration independently of the federal government, there have been several cases:

- The Inuvialuit have gone to arbitration for the resolution of issues including the exchange of federally maintained lands in their settlement area and the return of settlement lands no longer being used by the federal government. As noted by the Auditor General, the federal government was slow in addressing these matters.¹⁷ In the last year the outstanding land title issues have been settled but, according to the Inuvialuit, it should have been settled earlier and in a more collaborative manner.
- An issue relating to GNWT accessing Inuvialuit lands in order to provide services for facilities maintenance and community expansion has also been referred to arbitration. The disagreement was over the right of the Inuvialuit to charge access fees to the GNWT, as they would to a private developer, wishing to use their land. In the last year, the GNWT and the Inuvialuit have negotiated an access agreement which details the conditions for territorial government access to settlement lands.

Clarity for industry

The federal, provincial and territorial governments have gone to significant lengths to make useful information available to industry on the CLCAs. Development firms and other business interests have a vested interest in availing themselves of this information and ensuring a clear understanding of the terms of agreements. Industry is making an investment to seek out the information pertaining to matters of clarity and certainty regarding ownership and access to land and resources. Industry and business reportedly share a common desire to comply with regulations and cooperate with Aboriginal groups. This is especially significant as the number of development projects increases, notably in the Mackenzie Valley and Northeastern Quebec.

Clarity for residents in the settlement areas

The evaluation found some reported lack of clarity with regard to ownership, access and responsibility among residents in the NWT settlement areas. This appears to be the result of the inherent complexity of the issues and central organizations not yet having sufficient opportunity to provide education for their membership. This finding did not apply to the NEQA where residents and leaders, all living in a single community, report a high level of clarity.

¹⁷ Auditor-General, 2007, p.2.

4.3 Enhancement of Working Relations among Stakeholders

The CLCAs are designed to improve working relations between the federal government and Aboriginal people as well as clarify and nurture a positive working relationship between Aboriginal groups and prospective developers from outside the settlement areas. Results from the evaluation conclude that:

- Aboriginal-to-industry relationships have changed fundamentally as a result of the CLCAs and are viewed positively by both Aboriginal and outside business representatives.
- Aboriginal-to-government relationships remain similar to before the land claim agreements despite limited improvements in certain areas.
- There has been an emergence of joint ventures and other close working relationships between Aboriginal companies and non-Aboriginal resource development companies.
- Aboriginal and government members of land and resource management bodies are working together collaboratively and effectively.
- The organizations and structures established under the agreements have altered internal Aboriginal political dynamics and highlighted the challenge of maintaining community-level decision making while gaining benefit from central structures and authorities.

Aboriginal-industry relations

The land claim agreements have radically changed the nature of relations between Aboriginal people and developers in the North and have helped improve Aboriginal-industry relations. Prior to the land claim agreements, developers would approach the appropriate federal and/or provincial/territorial government offices to obtain any land use permits, water use licenses and other permissions they required. There was little or no requirement to consult with the tribal councils or other Aboriginal governance bodies.

Companies now must work with the Aboriginal groups to:

- negotiate impact benefit agreements which ensure local Aboriginal people are given the opportunity to participate in the development through employment;
- consult with the affected communities to identify local concerns and find ways to accommodate those concerns in their development plans; and
- obtain licenses and permits through processes that provide Aboriginal people with the opportunity to be heard and have an equal voice in decision-making. Regulatory boards, with Aboriginal and government representatives, decide on water and land use applications based on input from government and Aboriginal bodies at the regional and local levels.

Findings from the evaluation conclude that this relationship has been adopted by developers in a positive and cooperative manner and is viewed as both a business relationship and a partnership. The relationship is being driven by common objectives and an emerging respect on the part of most developers for Aboriginal concerns and interests. Court rulings that have established the duty to consult with affected Aboriginal communities have also contributed to this positive change in Aboriginal-industry relationships.¹⁸

Aboriginal-to-government relations

Findings from the evaluation conclude that the current approach to implementing the land claim agreements does not represent the relationship envisioned by federal policy. The Comprehensive Land Claims Policy states that land claim negotiations are intended to be more than “real estate transactions” and Aboriginal people and the federal government should define their relationship to ensure that the continuing interests of claimants in the settlement areas are recognized.¹⁹ Moreover, INAC states that the claims process is intended to build new and more progressive relationship with Aboriginal peoples, based on mutual respect and trust.²⁰

The Land Claim Agreement Coalition argues that the current arrangement establishes INAC, and not the federal government, as the liaison with the Aboriginal groups. They argue that this does not allow for the consistent and coordinated approach demanded by the agreements and results in implementation being viewed by the federal government as fulfilling the terms of a contract, as opposed to a new form of government to government relationship. The coalition argues that INAC has approached implementation as technical compliance with narrowly defined obligations as opposed to a partnership in achieving the broad objectives of the agreements.²¹

These arguments are largely supported by the 2007 Auditor General’s report which concludes that, INAC has continued to focus only on specific obligations and has not worked in partnership with the Inuvialuit toward the goals of this Agreement and the 2008 Senate Standing Committee on Aboriginal Peoples study which found the current approach to implementation limited in the same respects.²²

Evidence from the evaluation, including findings from interviews with Aboriginal leaders, INAC officials and other federal government officials, support the above observations. Aboriginal leaders consistently contrasted the federal government perspective on the land claim agreements, which they characterized as viewing the agreements as the end of a legal process, with their own perspective, which views them as the start of a new partnership.

The evaluation found a number of examples that illustrate where Aboriginal-government relationships with respect to the CLCAs have been strained. They include:

¹⁸ Haida v. British Columbia [2004] SCC 73 and Taku River Tlingit First Nation v. British Columbia [2004] SCC 74.

¹⁹ Department of Indian Affairs and Northern Development, *Comprehensive Land Claims Policy*, 1987.

²⁰ Minister of Indian Affairs and Northern Development, *Resolving Aboriginal Claims, A Practical Guide to Canadian Experiences*, Ottawa. 2003.

²¹ A New Land Claims Implementation Policy, Land Claim Agreement Coalition, 2003.

²² Auditor General of Canada, 2007. Standing Senate Committee on Aboriginal Peoples, 2008.

- Federal government procurement practices:* The agreements do not specify actions to be taken in this area but they establish an expectation that governments will use procurement as one vehicle to promote economic development. Procurement was viewed by Aboriginal signatories as opportunities for partnership that would have emerged collaboratively from the land claim agreements. However, in the early years of implementation, there were complaints about federal and GNWT procurement practices. The GNWT has since responded by establishing memoranda of understanding with the Gwich'in and Sahtu to work towards a target of 50% of contracts in the settlement areas going to Gwich'in or Sahtu companies. A similar MOU is currently being negotiated with the Inuvialuit. The federal government has recently established a policy requiring departments to track and report on procurement in the settlement areas and has begun to give notice to Aboriginal signatories when a federal contract is to be let in their settlement area prior to it going to tender.
- Organizational structure:* The federal government has not organized itself to support implementation beyond the narrowly-mandated implementation committees, with no overarching implementation policy or management structure that identifies federal objectives, identifies required action and resources and monitors progress. This is an example of the varying expectations under the agreements between the Aboriginal signatories and INAC. INAC has met its obligations under the agreement to participate on the implementation committees and has met the mandate of the committees to use them to address issues relating to specific provisions of the agreements, however, Aboriginal signatories expected a broader commitment to work collaboratively toward achievement of the long-term objectives of the agreements. While an effort was made to coordinate implementation among federal departments and agencies through a senior-level committee, this has often not translated into coordination on specific issues. When issues were brought forward by Aboriginal signatories to the implementation committees that did not pertain to a specific provision of the agreements, they were told correctly that the committees did not have a mandate to address the issues. However, no senior level alternative mechanism was provided that recognized the broader aims of the agreements and provided a forum to discuss these broader issues.
- Accessing government programs:* There is a widespread view among the Aboriginal leaders interviewed that the federal government does not make a sufficient effort to assist them in identifying and accessing government programs. They are not excluded from federal programs, but the Aboriginal organizations spend a considerable amount of staff, time and resources to locate funding for their needs. This issue of program applicability was raised at a recent workshop sponsored by INAC.²³ There have been periodic reviews of progress in economic development and efforts to improve in areas such as procurement, but these have not changed the perception among Aboriginal leaders interviewed for this evaluation of the difficulty of accessing federal programs.

²³ Towards a New Federal Framework for Aboriginal Economic Development, INAC conference, Edmonton, September 2008.

Aboriginal-government relationships in the four settlement areas can be described as follows:

- In the Inuvialuit settlement area there is scepticism among Aboriginal leaders about the federal government's commitment to collaboration toward the achievement of the objectives of their agreement. At the same time, Aboriginal leaders and approximately half of community-level people interviewed believe that relationships and communications with specific programs and offices within the federal government have improved.
- In the Gwich'in and Sahtu settlement areas there is scepticism regarding the federal commitment to a true partnership in the pursuit of long-term well-being in their communities, though the land and resource management bodies are viewed in most instances as productive and collaborative.
- In the Naskapi settlement area, mistrust of government remains high due to issues related to the ongoing land dispute with the Inuit and a perceived lack of financial support to assist in furthering the goals of their land claim. Tensions related to resource development have however reduced noticeably as both business and government recognize the duty to consult and are active in ensuring that benefits of development are being accrued to the Naskapi people.

There have been some limited improvements in Aboriginal-to-government relationships. As development requirements have been clarified and Aboriginal groups have greater control, tensions with government over development-related decisions have reportedly eased. There is also wide agreement that the new land and resource management process has contributed to improved relations regarding issues for which the new boards and committees are responsible.

Joint ventures

Opportunities for joint ventures are actively sought out by the four Aboriginal groups being examined. Joint ventures are viewed as opportunities to engage technical expertise, access capital, develop project management experience particularly in mining and oil and gas exploration, increase human resource capacity and increase Aboriginal participation in development. Joint ventures offer local companies the chance to develop their own capacities and offer communities employment opportunities. Companies from outside the settlement areas are motivated to develop joint ventures because they gain access to settlement lands, provide opportunities for government contracts where procurement agreements are in place for Aboriginal companies and provide a knowledgeable local presence for recruiting and retaining Aboriginal employees.

In the NWT, particularly in the Inuvialuit and Gwich'in settlement areas, a number of significant joint ventures have been established across a range of industries since the land claim agreements

were signed. These are mainly arrangements between companies linked to the development corporations created under the land claim agreements.²⁴

The Inuvialuit, through the Inuvialuit Development Corporation, have seven joint ventures currently in operation in oil and gas exploration and development, industrial services, environment and engineering services, transportation, construction, and telecommunications. They are as follows:

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- Dowland Contracting Ltd., an independent construction firm now 51% owned by the IDC
 - Aklak Inc., which operates Aklak Air, a schedule and charter airline serving the Beaufort Delta region including industrial clients
 - Inuvialuit Oilfield Services, jointly owned by the IDC and Schlumberger Company, a major international oil and gas exploration and development firm
 - Inukshuk Geomatics, a joint venture with Challenger Geomatics to provide geomatics survey services
 - Norterra Inc., a company that owns, among other operations, Canadian North Airlines and Northern Transportation Company Limited (NTCL), two major transportation companies in the North.
 - Combo Energy Services Inc., which provides utility support for industrial sites including mining and oil and gas exploration and development sites in the North
 - IEG Consultants Inc, a joint venture with Klohn Crippen Berger Ltd. which provides environmental and engineering services
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The Gwich'in Development Corporation has placed a similar emphasis on establishing strategic joint ventures and currently has nine such arrangements in place. They are as follows:

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- Mackenzie Aboriginal Corporation, a venture with several partners including Ledcor Group, North American Construction Group and Midwest Management Ltd., to provide a wide range of construction-related services
 - Mackenzie Valley Construction Ltd., a joint venture with Flint Energy Services to provide road construction, trucking, drilling and oilfield services and other support services
 - Gwich'in Ensign Oilfield Services Inc., a joint venture with Ensign Energy Services Inc. to provide drilling and well servicing
 - Gwich'in Geomatics, a partnership with MMM Geomatics Ltd., to provide survey services
 - GDC-NNP Limited Partnership, a venture with NewNorth Projects Ltd. to develop residential, commercial and industrial property
 - Inuvik Capital Suites Zheh Gwizu', a partnership with Northern Property Real Estate Investment Trust, operating hotel and apartment accommodations
 - Larga Ltd., jointly owned by the GDC, Nunasi Corporation and the Kitikmeot Development Corporation, offering Northerners travelling to Edmonton for medical services accommodation and other services
 - MG Lodging Inuvik Ltd., a joint venture with McDonald Brothers Electric Ltd., offering lodging camp housing and services
 - Gwich'in Helicopters Ltd., a joint venture with Great Slave Helicopters Ltd. to provide helicopter services for oil and gas exploration and development
-

In the Sahtu region, the primary focus has been on building community infrastructure using local construction companies, and not on developing joint ventures with outside companies. There are however several joint ventures in place including those with Canadian Helicopters, Sahtu Oil and EBA Engineering Consultants. The Naskapi have focused primarily on establishing memorandum of understanding with outside mining companies to ensure benefits are derived for

²⁴ Information on joint ventures that may be in place with the smaller, privately-owned companies was not included in the evaluation.

the community. They have, however, ownership interest with New Millennium Capital Corporation Ltd. for a mining project. Interviews with Sahtu and Naskapi leaders indicate that joint ventures will become more of a focus in the near future.

Co-management working relations

There is widespread support for the land and resource management process in place in the NWT in terms of relationship building. There is recognition that this process represents a success in terms of Aboriginal and government representatives working on important development decisions. At the board level, relationships have been positive and representatives report a growing mutual recognition of the value of bringing scientific and traditional knowledge together to arrive at decisions that will foster sustainable development.

Internal Aboriginal political dynamics

The management and decision-making structures that the land claim agreements have established represent significant changes that have affected internal Aboriginal political dynamics. The agreements establish central structures to manage the implementation of the land claim agreements and the Aboriginal groups have put in place new, or enhanced, political and consultative structures which link the communities to the centre. Considerable authority is housed in the central bodies but the board of directors of the bodies come from the communities.

The evaluation found concern in the three NWT regions regarding tensions have arisen between the central and the local community bodies, and in some instances among the various community-level bodies, in relation to economic development decisions and perceptions about the allocation of resources and decision-making.

4.4 Stable, Predictable Environment for Economic Development

The land claim agreements make reference to the objectives of achieving greater Aboriginal economic self-sufficiency and enabling Aboriginal people to participate fully in the northern Canadian economy. The focus of the evaluation is on the extent to which the CLCAs have contributed to creating an environment that encourages economic development. Results from the evaluation conclude that:

- The regulatory regime, in most instances, has been operating in a timely fashion and has not been a deterrent to resource development and investment.
- Land claim agreements have been an important factor in the increase in Aboriginal participation in the economy by contributing to the development of Aboriginal infrastructure and to both communally-owned and independent Aboriginal business development.
- There remains a challenge to improve training and business opportunities in the northern economy. A perception among Aboriginal leaders is that the lack of dedicated federal government economic development support, beyond programs of general application, is limiting progress.

The regulatory regime

Evidence from the evaluation indicates that business development is moving forward in a promising fashion in the four settlement areas and that the regulatory regime, for the most part, has not been a deterrent to investment and business development.²⁵

The evaluation findings deviate from those of the recent report on the regulatory regime across the North by Neil McCrank.²⁶ The evaluation findings indicate a more positive view of the regulatory regime in the three NWT settlement areas, when compared with the McCrank report, which found the current regulatory regime across the North overly complex and not sustainable given the nature of local capacities. The evaluation findings correspond in terms of the need for increased local capacity to handle the demands for consultation and reviews of applications but not in relation to the impact of the regime on most investment and business development in the three settlement areas.

²⁵ Examination of the regulatory regime focuses on the three NWT settlement areas, due to the Naskapi being only marginally involved in the regime in place in their broad settlement area which is shared with the Inuit and Cree.

²⁶ McCrank, 2008. The scope and focus of the two studies are different. The McCrank report examined areas under agreements and not under agreements and compared current land and resource management model to an ideal management model.

Land use permits

Most industrial development in the North requires land use permits and water licenses and is subject to environmental impact assessments. There has been a substantial increase in the number of land use permits and water licenses since the late 1990s in the Gwich'in, Sahtu and the Inuvialuit settlement areas. Economic factors, such as the price of oil and gas and minerals and the cost of exploration and production, are the primary drivers in determining the number of land use permits and water licenses issued in a given year. Available funds for research relating to water, fisheries, wildlife and environmental conditions are also a factor as many licenses and permits are for research initiatives. However, it is evident from the number of land use and water applications and approvals that the regulatory process is not deterring companies from investing.

In the Inuvialuit settlement area, there are currently 19 active municipal water licenses and 59 active industrial water licences. There has been a preponderance of licenses issued since 2000 primarily associated with increased mining and oil and gas exploration. Since the Gwich'in and Sahtu land and water boards were established there has been a significant increase in the number of applications for land use permits and water licenses, exceeding the expectations of both Aboriginal and government officials. The table below illustrates the number of applications received by the land and water boards and the number of applications approved since 1999.²⁷

Table 1: Gwich'in and Sahtu Land Use and Water Applications and Approvals, 1999 to 2008

	Gwich'in Land and Water Board		Sahtu Land and Water Board	
	Applications	Approvals	Application	Approval
1999	21	21	2	1
2000	10	10	6	4
2001	11	9	10	9
2002	17	13	12	12
2003	13	10	43	35
2004	9	9	29	29
2005	8	8	21	18
2006	13	13	10	10
2007	7	7	26	20
2008 ²⁸	6	6	10	1
Total	115	106	169	139

Timing of application process

Findings from the evaluation conclude that the timing of the application process for land use and water licenses and permits is not a deterring factor in investment decisions. The Boards, in the majority of cases, meet the deadlines prescribed under the governing legislation and while the prospect of a lengthy environmental review does exist for any sizeable development, very few applications are referred for a formal environmental review.

²⁷ In all but one instance, the only applications that were not approved were the ones that were withdrawn or incomplete.

²⁸ Reflect partial year figures.

The data examined for the evaluation included only applications and rulings for the individual land and water boards in the three settlement areas. Major resource development projects that span more than one of these settlement areas, or that include areas not covered by a land claim agreements, apply to the Mackenzie Valley Land and Water Board. The Mackenzie Gas Pipeline project, by far the largest development project anticipated in the Mackenzie Valley, is one example, however large projects can also be concentrated in a single settlement area and be subject to the Board in that area. In the three areas under study, applications to the Boards have been primarily for exploration. These projects may result in production of oil, gas or minerals and engender a new set of permit applications. The data analyzed in this evaluation therefore reflects the experience primarily at the exploration stage of resource development.

Summary data on application and approval dates was not readily available due to verifiably accurate record keeping that had not been automated at the time of the evaluation. However, it was possible to review a sample of recent applications from both the Gwich'in and the Sahtu Land and Water Boards.

- Data from the Gwich'in Board based on a case-by-case review of application and approval dates from the Board Registry found that in 51 cases dating from the year 2002 through to 2007, the average elapsed time from application to approval was two months. Out of the 51 cases examined (which were randomly selected but included applications for mining and oil and gas exploration as well as smaller research projects) two-thirds of the applications took less than one month to be processed. One specific case took 19 months because it was sent to an environmental review process, and a second application took nine months. The remaining applications were all completed in four months or less.
- A similar review was conducted of applications to the Sahtu Land and Water Board. The evaluation examined 48 cases within the same date range and found that applications took an average of three months, including one case requiring nine months, one requiring five months and the remainder requiring four months or less. The most frequent elapsed time was two months.

One of the roles for the land and water boards in the Gwich'in and Sahtu regions is to refer applications to the Mackenzie Valley Environmental Impact Review Board (MVEIRB) if there is a risk of significant environmental impact. In the Inuvialuit region, applications would be referred to the Environmental Impact Review Board (EIRB). These boards review applications and can call for a full environmental review with public hearings if the risk is deemed significant. They can also initiate a review independently.

Applications referred for environmental review are far more likely to take time for approval, particularly if the MVEIRB or the EIRB decide, upon initial screening, that the case requires a full review. The data shows that very few applications are referred. Since 1989, only six cases have been referred to the Inuvialuit EIRB out of hundreds of applications submitted to the Screening Committee in that region. The Gwich'in Land and Water Board has not sent any applications to the MVEIRB, and the Sahtu Land and Water Board has referred only three applications since it began operating.

Interviews with government and Aboriginal land and resource management officials indicate that where problems do arise in the timing of approvals it is as a result of:

- *Short work season:* If applications are not approved by the beginning of the work season in the spring, projects can be jeopardized for that year. It is incumbent on the organization making an application to start the process early enough and to make sure that the application is complete. The large majority of companies are aware of this contingency and make it their business to plan ahead, but occasionally opportunities are missed.
- *Review delays:* Occasionally, one or more of the organizations that are asked to review applications are not able to complete their review as quickly as the schedule demands. Often this is during the busy spring season when local renewable resource committees and other community-based bodies with very limited resources and technical expertise are not able to keep up with the demand for reviews.

Views of the post-agreement economic development environment

Land claim agreements have brought a new regulatory regime and business environment that requires companies to consult with Aboriginal political leadership and community residents and to negotiate arrangements to help ensure that Aboriginal people benefit from development in their settlement areas. The new regional land and resource management bodies and the community-level advisory organizations, such as hunters and trappers associations and renewable resource councils, represent an engagement of the Aboriginal people in the NWT in decisions affecting land and resource use, environmental protection and fisheries and wildlife management which did not exist prior to the land claims.

From an Aboriginal perspective, this is an extremely positive change and a major benefit of the land claim agreements. The economic development and business environment has been enhanced by virtue of recognizing their right to have an important influence on what takes place on their lands.

Interviews with representatives of resource development industry associations and non-Aboriginal companies doing business in the settlement areas, demonstrate a high level of comfort with the new way of doing business. Community consultation is being built into their business practices and good working relationships have been established with Aboriginal business leaders. There have been very few examples of companies trying to circumvent the requirement to consult with affected communities.

From the perspective of most non-Aboriginal resource development companies, the changes represent improvements in the business climate, as disputes over land use and access prior to the land claims made investment less predictable. They recognize Aboriginal rights and have adapted to them without any significant impact on investment decisions.

Findings from the survey of members of the land and resource management bodies include:

- Half of the survey respondents indicated that the new regulatory processes under the land claim agreements had contributed to a more stable and predictable environment for economic development, with almost all the remaining respondents stating that the regulatory processes had helped somewhat to make the environment more stable;
- Two-thirds of respondents stated that the new regulatory and advisory bodies have helped improve Aboriginal-to-industry working relationships and almost all of the remaining said they were unsure; and
- Half of all respondents stated that the boards are operating very effectively with the remainder stating that they were operating somewhat effectively.

Aboriginal business development

Aboriginal participation in the northern economy has expanded significantly in the years since the land claim agreements. Findings from the evaluation demonstrate that the land claim agreements have been a major factor in the increase of Aboriginal participation in the economy. Aboriginal infrastructures, created directly as a result of the agreements, have provided a significant employment and economic activity base. Seed money for business investment obtained through the agreements have established a range of industrial and service businesses.

Prior to the land claim agreements, only a very small number of Aboriginal businesses were in operation. A typical estimate in the larger communities such as Inuvik was that there may have been a handful of companies at the time or there were maybe five or six Aboriginal businesses before the land claim agreements. In most of the smaller communities there were virtually no businesses at that time with the exception of a single retail store for groceries and other basic supplies. Trade usually occurred informally and people went outside to Yellowknife or beyond to obtain supplies.²⁹

In the NWT and in the Naskapi region, development was slow in the early years under the agreements because oil and gas and mining exploration and development stalled from the mid-1980s until the late 1990s. Aside from traditional economic activity and service industries, the great majority of economic activity in the North is based on these two sectors, so there were few opportunities for new Aboriginal business development.

During this time, the primary impetus for economic activity came from the land claim agreements themselves including the government and administrative functions that needed to be established to fulfill the terms of the agreements. Funding to establish these functions as well as funds transferred to the designated Aboriginal organizations over the first 10 to 15 years of the agreements, were critical in enabling the Aboriginal groups to establish community and regional infrastructure and employ significant numbers of individuals. That infrastructure remains an active and important component of Aboriginal economic activity in the four regions.

²⁹ No data is available to make comparisons to the current business environment, therefore evaluators relied on anecdotal information provided by interview respondents.

As resource development activity grew in the late 1990's, the Aboriginal development corporations and independent businesses were in a position to participate. This was in part because they had prepared themselves through the establishment of joint ventures with outside firms and other strategic investments related to resource development and in part because there was now, under the land claim agreements, a clear expectation that companies working in the settlement areas would use local firms where the capacity existed and employ local Aboriginal people where possible.

Aboriginal business development has been of two types:

- *Larger-scale ventures*: typically joint ventures or equity investments, designed primarily to place communally-owned companies in a position to take advantage of resource development opportunities. The companies are managed independently but are owned by the Aboriginal development corporations on behalf of land claim beneficiaries/participants. They sometimes operate both in the settlement area and in other locations according to the outside operations of the partner companies.
- *Independently owned and operated businesses*: usually of a smaller scale and operating in the settlement and surrounding areas.

Table 2 demonstrates that there are currently a considerable number of businesses operating in the settlement areas and that Aboriginal people have been active participants in this development.

Table 2: Organizations Currently Operating in the Communities of the Settlement Areas³⁰

Type of Organization	Gwich'in Population 5,017 (Aboriginal pop. 3,513)		Sahtu Population 2,743 (Aboriginal pop. 1,988)		Inuvialuit Population 5,865 (Aboriginal pop. 4,313)		Naskapi Population 570 (Aboriginal pop. 560)	
	Aboriginal	Non-Aboriginal	Aboriginal	Non-Aboriginal	Aboriginal	Non-Aboriginal	Aboriginal	Non-Aboriginal
Gov't/Admin	13	11	29	10	30	13	9	1
Social Service	15	36	9	28	13	40	10	6
Business Services	57	122	62	78	98	122	7	6
Transportation	8	9	12	11	21	10	2	1
Resource Development	2	3	5	15	20	3	0	12
Arts/Culture	1	2	6	2	4	3	0	0
Total	96	183	123	144	186	191	28	26

³⁰ Population figures take into account non-Aboriginal populations and members of Aboriginal groups other than agreement beneficiaries/participants in order to contextualize the economic activity documented.

The largest number of Aboriginal businesses is centred in the services sector and in government, administrative and social services. Industrial activity including resource development and transportation have made modest gains, but the numbers of those businesses are notable considering the Aboriginal populations in the communities and the overall populations in the communities. The table also demonstrates a substantial participation rate of Aboriginal business relative to the overall number of businesses in operation. Aboriginal enterprises, including government and administrative organizations, range from 52% of all enterprises for the Naskapi to 49% (Inuvialuit) 46% (Sahtu) and 34% (Gwich'in).

Economic development supports

The land claim agreements include objectives to support efforts to increase Aboriginal participation in the economy and to achieve self-sufficiency through existing programs with no additional financial obligation to government. The agreements mandate the establishment of development corporations in each of the settlement areas. In the Inuvialuit, Gwich'in and Naskapi regions, a single development corporation was established with funds from the agreements' financial transfer to initiate investments targeted to establishing beneficiary/participant-owned businesses that would provide jobs, on-the-job training and economic benefits to their communities. For the Inuvialuit, there was an additional \$10 million grant to the Inuvialuit Development Corporation (IDC) to kick-start economic development activity. In the Sahtu region, this function was decentralized with three district land corporations taking responsibility for resource allocations and investments in larger projects. Seven separate community-based land corporations play a local role using shares of annual investment profits allocated on a per capita basis.

The evaluation examined internal economic development supports provided by the Aboriginal groups and government supports and found that, while some gains are being made locally, there is wide dissatisfaction with the level of government support under existing programs.

Aboriginal economic development supports

The Aboriginal governing bodies in the four regions have all undertaken economic development activities oriented toward small businesses and training. The Inuvialuit Regional Corporation's (IRC) Community Development Division provides a range of education and training and career development programs with funding from general application federal government and GNWT programs including the Aboriginal Human Resources Development Agreement (AHRDA). The IRC works closely with industry and with the GNWT Department of Education, Culture and Employment and Aurora College to identify emerging labour needs and plan targeted training programs. It also provides financial assistance for individuals pursuing post-secondary education and training, either locally or outside the settlement area.

The Gwich'in have a similar arrangement, with a business development function to support and promote Gwich'in businesses and an active education and training function under its Beneficiary Services Department. They also work closely with industry, the GNWT and Aurora College, as well as with the Inuvialuit, where appropriate, to identify training and education needs in order to target programs and services accordingly.

The Sahtu have a regional coordinator to administer the federal government's AHRDA and its Aboriginal Skills to Skills to Employment Program (ASEP) for the region and have recently hired a business development officer. District and local land corporations use a portion of their annual allocations from income on the land claim settlement financial transfers, to invest in community development projects and to provide assistance to individuals taking post-secondary education and training.

The Naskapi economic development functions are divided between the Naskapi Development Corporation and the Naskapi Nation. Both organizations invest in local business opportunities as well as in opportunities outside the immediate community. They provide funding and services in education and training, including administering the AHRDA and working with the Quebec Ministry of Education to develop tailored training opportunities. Funding is provided to individuals pursuing post-secondary education, which is not available in Kawawachikamach.

The view of Aboriginal leaders and economic/business development staff in the four settlement areas is that investments in Aboriginal business have been very successful, resulting in a number of flourishing companies and employment opportunities. However, it is recognized that the majority of residents are still ill-equipped to participate in, and benefit fully from, the northern economy due to lack of education, training and work experience.

Government economic development supports

In the three NWT regions, there has been frustration over what is perceived as a "hands off" approach by the government in supporting education and training and business development efforts. Interviews for the evaluation pointed to several concerns widely expressed in the settlement areas:

- *Lack of targeted support:* Federal government support for economic development planning is general in nature rather than specific to the settlement areas. A recent federal government economic development framework conference is an example, in which NWT participants were grouped with others from Alberta and Saskatchewan, and discussions were viewed as often inapplicable to the North. No prior consultation took place with Aboriginal officers in the North to ensure applicability.
- *Insufficient funding levels:* The Aboriginal groups view current levels of government financial support for economic development to be insufficient particularly in the North where costs are high. The Naskapi are in the process of finalizing an agreement with the Quebec government that will make available to the Nation approximately \$1.8 million over five years. These funds are intended for economic development and community infrastructure projects and economic development programming measures such as local investment funds, Aboriginal venture capital funding or local economic development assistance.
- *Lack of local presence:* The federal government is viewed as not having established a sufficient local economic development presence or systematic approaches to supporting

northern requirements. Although INAC's Aboriginal economic development programs are present in the regional offices, the department's economic development planning and management is done in Ottawa. According to Aboriginal economic development officers interviewed, the regional office staff has not established a strong local presence.

- *Unsuitable program priorities:* Decisions about program priorities and areas of focus for given years are typically made in Ottawa or in Yellowknife without sufficient consultation, according to Aboriginal leaders and business development officers. These decisions reflect the fact that the programs are universal rather than targeted to the settlement areas and that no funding has been made available for the settlement areas beyond programs of general application. An example offered by several respondents was the GNWT practice of having training programs that emphasize needs in the southern NWT which tend to be located in the southern NWT, due to population. Related to this is the widely-held view that federal government programs tend to cater to the needs of more advanced groups, whereas most companies and individuals in the north are at the very early stages of development and need more basic skills development.
- *Lengthy application processes:* The application process for federal government business development assistance is reportedly very lengthy, to the point where windows of opportunity for business development are sometimes missed.
- *Lack of commitment to procurement:* While GNWT procurement is viewed as having improved recently in the Gwich'in and Sahtu regions with the application of an MOU designed to have local companies receive 50% of the value of government contracts, federal procurement is viewed less positively. Some recent measures have been put in place to improve the communication of procurement information.

4.5 Meaningful and Effective Voice for Aboriginal People in Decision-making

The four land claim agreements have provisions designed specifically to provide Aboriginal signatories with a stronger voice in decision-making with regard to land and resources. This was accomplished primarily through the land and resource management bodies established under the agreements. Results from the evaluation conclude that:

- The land and resource management regime represents a positive change in the role of Aboriginal people in the decision-making for the settlement areas. Aboriginal people now have input into development decisions affecting their communities.
- The land and resource management bodies have all been established with full and active participation from Aboriginal members. However, delays in nominations and appointments have hindered some activities.
- There is requirement to streamline the community consultation process as well as to support land and resource management bodies in managing their workloads and the technical aspects of development proposals.
- Land and resource management bodies are successful in balancing scientific and traditional knowledge in decision-making.

Fundamental improvement in the role of Aboriginal peoples in decision-making

Prior to the land claim agreements being established, land use and water permits and environmental protection measures were managed by the federal and provincial/territorial governments. There was no requirement to consult with Aboriginal communities except where a major environmental impact review was deemed to be warranted. Aboriginal people in the North had very little influence over land and resource use decisions.

Evidence from the evaluation concludes that the land claim agreements have had a transformational impact on the ability of Aboriginal people to influence the nature and pace of development in their settlement areas. Previously, federal, provincial and/or territorial governments would decide whether or not to approve the development and would issue the necessary licenses and permits without any requirement to consult with the local Aboriginal residents. Currently, the local Aboriginal groups have equal representation on advisory and decision-making bodies and the right to be consulted by prospective developers and to negotiate mutual benefit agreements. In the past, outside companies could establish camps and set about exploration or production without heed to the concerns of local Aboriginal residents but now they must consult and negotiate agreements that share the benefits. A Gwich'in respondent stated, "We would go to bed and wake up in the morning to find a developer right in our backyard, and there was nothing we could do about it. That will never happen now."

Land and resource management bodies

Creation and participation

The NWT land claim agreements establish a set of screening, advisory and regulatory bodies to help ensure that Aboriginal people have a meaningful say in land and resource decisions affecting their communities and the long-term health of their settlement lands.³¹ With the exception of the Inuvialuit Game Council, which is an exclusively Inuvialuit body, these bodies are co-managed and bring together government and Aboriginal parties to jointly manage land and resource use, environmental impacts, as well as fisheries and wildlife in the settlement areas. Besides the equal membership aspect of the bodies, Aboriginal influence is afforded through explicit mandates to draw on both scientific and traditional knowledge in reaching positions and making decisions.

Aboriginal membership

Representation on the land and resource management bodies is based on equal government and Aboriginal membership, with the chair being typically nominated by board members. In most instances, the Minister of INAC appoints the members and the chair based on nominations from the represented parties. The government representatives are divided between the federal and the territorial or provincial governments involved.

Findings from the evaluation conclude that the assignment of representation has proceeded as intended under the agreements. There are, however, gaps in membership due to terms ending or resignations combined with the sometimes slow pace of re-appointment. This has resulted in a small number of reported delays in board meetings where it was apparent that the required quorum could not be reached.³² Delays in appointments can be attributed to the length of time taken in which it takes to put forward nominations by the nominating parties, to perform security checks and to have the appointment completed by the Minister of INAC.

Table 3 provides details of vacancies for nine bodies in the NWT for which appointments are required from the Minister of INAC. Based on a total of 54 positions, there are 80% or 43 positions, which are currently filled. None of the vacancies are concentrated with any given body, meaning that it is possible for all of bodies to form a quorum if required. However, interview respondents from the three NWT Aboriginal groups and INAC noted that due to work commitments and travel requirements, board members are sometime unable to attend meetings, making difficult at times to reach quorum.

³¹ The term “bodies” is used to describe the range of boards, councils and committees created as a result of the land claim agreements. A total of 17 land and resource management bodies have been established. Two others also resulted in part from the agreements. The Mackenzie Valley Land and Water Board receives applications for licenses and permits in non-settlement areas and for projects crossing settlement area boundaries. The Inuvialuit Game Council was created in anticipation of the IFA to manage Inuvialuit interests in wildlife and habitat. All 19 bodies are described in Appendix A.

³² INAC and Aboriginal officials reported concerns about the risk of lack of quorum especially in the early years of implementation and also cited a few examples where delays in nominations or appointments had resulted in cancelled meetings. However, evaluators did not review all board files to document cases where this occurred.

Table 3: Land and Resource Management Board/Committee Memberships and Vacancies

Board/Committee	Intended # of Members	Vacancies (as of June, 08)
Sahtu Land and Water Board	5	1 (GNWT)
Sahtu Land Use Planning Board	5	2 (Sahtu, chair)
Sahtu Renewal Resources Board	7	2 (Sahtu)
Gwich'in Land and Water Board	5	1 (chair)
Gwich'in Land Use Planning Board	5	2 (Gwich'in, GNWT)
Gwich'in Renewal Resources Board	7	0
NWT Water Board	6	2 (Environment Canada, GNWT)
Environmental Impact Review Board	7	1 (Yukon)
Environmental Impact Screening Committee	7	0
Total	54	11

The survey of board members conducted for this evaluation found virtually a unanimous agreement that the boards had been established as they were intended to in terms of membership. On a similar note, more than 90% of survey respondents said they believed that Aboriginal members on the bodies were full participants in all board activities.

Lack of influence by the Naskapi

Under the current arrangement, the Naskapi have little influence over decisions relating to land and resource management unless it relates to the parcel of land transferred to Naskapi ownership. Much of the land in the JBNQA settlement area is the traditional hunting and fishing ground for the Naskapi, which they continue to rely on for their harvesting. The Naskapi currently have two representatives on the Hunting, Fishing and Trapping Coordinating Committee, out of eight Aboriginal representatives, with a total of 16 voting members. The two environmental commissions in Quebec have representation from the Kativik Regional Government groups, none are Naskapi at present time.

Aboriginal voice in decision-making

Evidence from the evaluation indicate strong and widely-held support for the Aboriginal role in the bodies established, and a belief that the new regime provides a meaningful Aboriginal voice that did not exist previously. Improvements are however being sought and include:

- *Additional information to community members:* Residents do not always understand the regulatory process and that the boards are acting on behalf of all of Canada and not only the residents in the communities. As the IFA's Environmental Impact Screening Committee web-site notes, "Even though particular groups appoint the members, the EISC serves as a non-partisan organization. The members are expected to contribute as experienced individuals and not as representatives of their appointing body." Board executives report that residents can assume incorrectly that boards can reject applications if people express concerns, and do not understand that the boards are mandated to balance the interests of all Canadians in reaching decisions.

- *Improved communication:* While consultations often take place prior to board decisions, community members report that they often do not get the results of the decisions rendered. There is little follow-up to keep community members informed about the progress of development and the extent to which their concerns are being addressed. Board members and staff acknowledge that ongoing communication with communities is often the result of their heavy workload and limited budget to hire staff with communications skills.
- *Improved enforcement of license/permit conditions:* Much of the land in the settlement areas remains Crown land, with the federal and territorial governments responsible for enforcing permit and license conditions established by the regulatory bodies. Conditions can include the control or prevention of flooding and erosion, disposal of chemical or toxic material as well as the protection of wildlife habitat and fisheries. Resources for enforcement are limited and according to enforcement officials and residents, the conditions placed on permits and licenses are at times not given sufficient attention. Training for site inspection and ongoing environmental monitoring functions could provide an opportunity for local residents to assume this function.
- *Process to assess risks associated with smaller projects:* Development activity that fall under the threshold requirement for land use permits and water licences may present environmental or wildlife risks. Currently, there is no tracking or monitoring of these projects to ensure compliance. Several reviews of mineral activities in the Inuvialuit settlement area have raised this issue and similar concerns were raised in the Gwich'in and Sahtu areas.³³
- *Enforceable permit conditions:* Regulatory bodies do not have the responsibility to enforce the conditions they attach to permits and licenses. At times, the boards may not be aware of the limit to their authority and apply conditions to permits and licenses which the federal and provincial /territorial governments do not have the authority to enforce. This problem has been alleviated somewhat in recent years as communication between bodies and with government offices has improved.

Workload and technical capacity challenges

The predominant finding in relation to community consultations, which mirrors findings of a number of recent studies in the settlement areas, is that the demand placed on the various advisory and regulatory bodies is creating considerable strain on those bodies and on the community consultation process.³⁴ Increases in the number and complexity of mining and oil and gas development applications in recent years have shown that the capacity of the bodies to

³³ Environmental Impact Screening Committee, *Review of Mineral Activities in the Inuvialuit Settlement Region 1997 – 2000*, Inuvik, April 2002.

³⁴ Recent reports such as the 2008 Road to Improvement, the “Review of the Regulatory Systems Across the North” by the INAC Minister’s Special Representative Neil McCrank, a 2005 Northwest Territories Environmental Audit by Senes Consultants Limited, a 2008 interim report of the Senate Standing Committee on Aboriginal Peoples Special Study on the implementation of comprehensive land claims agreements in Canada, and the 1998 Report of the Auditor General, all make reference to the insufficiency of federal funding and other supports for the effective operations of the bodies established under the agreements.

handle the workload has been in doubt, and that community consultations have suffered. Consistency and quality of the consultations has reportedly diminished as residents are reported to be tired from the frequency of consultations and the turnout is often low.

INAC is exploring ways to enhance training opportunities for board members and would like to establish orientation sessions regarding issues such as hearings, administrative law and board operations with the hope of making it a requirement for all new board members.

The views described above are not universal. In the IFA, board members and staff, while acknowledging the benefits that could derive from increased funding, believe they have been able to function effectively with existing resources. This is partly due to the structures in place for land and resource management feed from the community level to the regional level, to limit the requirement for extensive community consultations on individual issues.

In the case of the Naskapi, there is general satisfaction with the extent to which the community of Kawawachikamach is consulted by Chief and Council when development decisions are being made. However, it is also acknowledged that there is usually a small group of the same people who attend meetings.

Balancing traditional and scientific approaches

There is growing recognition that Aboriginal people have maintained a traditional relationship with their land that provides them with unique knowledge in relation to the environment and local ecological relationships. This traditional knowledge is increasingly being recognized as an important part of project planning, resource management and environmental assessment.³⁵

The comprehensive land claim agreements recognize the right of Aboriginal people to have a voice in decisions affecting their lands and the legitimacy of basing land and resource management decisions on both traditional and modern scientific evidence. Findings from the evaluation conclude that concerns related to wildlife, fisheries, environment and heritage/culture are routinely and systematically integrated into the licenses and permits. The survey of board managers and staff conducted for this evaluation found that 87% of respondents agreed that the actions taken by their boards reflected a balance of traditional and scientific perspectives.

³⁵ Section 16.1 of *Canadian Environmental Assessment Act* (CEAA) gives responsible authorities conducting an environmental assessment the discretion to consider Aboriginal traditional knowledge.

4.6 Social and Cultural Well-being in Aboriginal Communities

The preservation of cultural distinctiveness and identity is of paramount importance within Aboriginal communities and is evident in most agreements. The Comprehensive Land Claims Policy explicitly recognizes the goal to encourage cultural and social well-being through land claim agreements. The evaluation examines the extent to which the agreements have contributed to sustainable social and cultural well-being. Results from the evaluation conclude that:

- There have been modest gains in employment, income, education and housing in settlement areas since the agreements have been in place.
- A comparison of “agreement” and “non-agreement” Aboriginal communities of similar size and location does not associate gains in well-being in the land claim communities with the land claim agreements themselves.
- Participation rates in traditional Aboriginal pursuits are lower than prior to the land claim agreements, yet are still prevalent.
- Knowledge of Aboriginal languages is on a decline. Programs using land claim agreement funding and other federal and provincial/territorial government support are working with the intention of reversing the trend.
- Crime and substance abuse rates are on the rise in the NWT. There is no evidence of a direct link to the land claim agreements, but many community residents see the agreements as forces of modernization which contribute to social problems.

Gains in measures of well-being

This research component involves two types of analysis which are presented below:

- Analysis of changes in the individual attributes and in overall community well-being within individual communities and for settlement areas as a whole, throughout the years of 1981 through 2006.
- A comparative analysis of the target communities against Aboriginal and non-Aboriginal communities of a similar size and circumstances not associated with a comprehensive land claim agreement.

Community well-being indices

INAC’s Strategic Research and Analysis Directorate have developed measures of well-being in Aboriginal communities which assess change in certain attributes throughout 1981 to the

present.³⁶ The community well-being indices (CWB) are drawn from Census data on the following attributes.

- Household incomes
- Labour force activity and employment
- Educational attainment
- Housing availability and quality

The findings from a compilation of CWB data are summarized in the tables provided below, organized by the elements of the overall CWB index as well as the overall CWB figure for communities in each settlement area. The indices in the tables, with the exception of the population figures, are based on a maximum score of 1. An increase in the score for a given community indicates that there have been improvements in that area. For example, an increase in household income levels, increased labour force activity and employment, improvement in the reported quality of housing and/or a reduction in the number of people living in houses in the community and an increase in the education attainment levels of community residents. Where data is indicated as “N/A” this states that there is no data available for that particular community, either because there were too few cases to meet the criteria for the CWB, or because data were not available for use due to cell numbers being too small to protect privacy concerns.³⁷

Table 4: Income Index

Settlement Area	2001 Pop.	1981	1991	1996	2001
JBNQA (Inuit portion)	9334	0.38	0.52	0.55	0.56
NEQA (Naskapi)	540	N/A	0.43	0.49	0.48
Inuvialuit	5,254	0.55	0.61	0.60	0.63
Gwich'in	4482	0.55	0.64	0.66	0.67
Sahtu	2326	0.50	0.62	0.64	0.68
Total	21,936	0.50	0.56	0.59	0.60

The income index measures the average annual individual income of people in the settlement area communities. The index is viewed as a proxy for the amount of monetary wealth within the communities. The expectation is if the land claim agreements had resulted in more economic development, as well as a greater share for beneficiaries of the proceeds of development through local business, investment and employment, there would be an increase in the agreement period in average incomes.

Table 4 shows a moderate yet steady increase over the time period, which suggests that average incomes have increased in the settlement areas since the agreements were signed. The biggest increases were experienced during the time frame of 1981 to 1991. This may relate to the emergence of particular development projects in the period or reflect an initial boost in average

³⁶ The analysis includes the communities in the Inuit portion of the James Bay and Northern Quebec settlement area.

³⁷ The components of the CWB Index are, in these tables, generally based on smaller “N-sizes” than the CWB itself. For reasons of confidentiality, component data are not available for communities with populations smaller than 250.

income as more residents found wage or salaried employment where previously they relied on traditional modes of economic activity or on government transfers.

Table 5: Labour Force Activity Index

Settlement Area	2001 Pop.	1981	1991	1996	2001
JBNQA (Inuit portion)	9334	0.74	0.79	0.83	0.82
NEQA (Naskapi)	540	N/A	0.66	0.70	0.71
Inuvialuit	5,254	0.79	0.79	0.80	0.81
Gwich'in	4482	0.76	0.79	0.81	0.81
Sahtu	2326	0.73	0.79	0.83	0.84
Total	21,936	0.76	0.76	0.79	0.80

The labour force index is a combination of two measures. The first measure is regarding the labour force participation during the week prior to the census by people of age 20 years and older. The second is the proportion of the total labour force of persons aged 15 years and older who were employed during the week prior to the census. These two measures are given equal weight in the labour force activity index. The expectation would be that the land claims agreements resulted in more economic development in the settlement areas and a greater role for Aboriginal beneficiaries in that development and that there would be an increase in the index over time.

Table 5 suggests that labour force activity among residents in the settlement areas has been quite stable throughout the period, with some moderate gains but no sizable growth. In the Northwest Territories, employment in the settlement areas has been largely dependent on measure of oil and gas development. Since the mid-1980s, until very recently, there has been little activity in this area due to the price of fuels and the relatively high cost of exploration and production in the North compared to other opportunities internationally. In turn, throughout recent years, oil and gas companies have returned to the North and there has been an expansion of exploration.

There is also considerable anticipation by many people within the settlement areas that the Mackenzie Gas Project will represent a major long-term economic boost to the area and will result in substantial economic benefits to the land claims beneficiaries. Mining exploration has increased in the three settlement areas and there are benefits being accrued to the Aboriginal beneficiaries from activity related to exploration. It will be some time, however, before these explorations lead to any widespread mining production as well as larger-scale employment.

Throughout northern Quebec, the main engine of economic development is mining, with most mining projects being in the early stages of development. There has been limited economic development success, particularly with the Inuit in northern Quebec, with no large-scale development to greatly enhance wage and salaried employment opportunities.

Table 6: Education Index

Settlement Area	2001 Pop.	1981	1991	1996	2001
JBNQA (Inuit portion)	9334	0.31	0.52	0.57	0.59
NEQA (Naskapi)	540	N/A	0.65	0.53	0.64
Inuvialuit	5,254	0.46	0.55	0.64	0.65
Gwich'in	4482	0.54	0.61	0.71	0.71
Sahtu	2326	0.47	0.59	0.70	0.70
Total	21,936	0.45	0.58	0.63	0.66

The education index is comprised of two indicators for education. The first indicator is a measure of functional literacy; the proportion of the population 15 years and older with a grade 9 or higher education. The second indicator measures the proportion of the population 20 years and older with at least a high school education. The two indicators are combined, with two-thirds weight given to the “grade 9 or higher” measure and one-third weight to the “high school education” measure. The expectation would be that as resources and capacity increased in the settlement area communities, there would be an increase in educational attainment. Education is indirectly linked to improvements in economic conditions, as well as being dependent on other factors, including provincial/territorial education programs and practices, resource allocation and parental and community support for education. It is reasonable to assume that changes in educational attainment resulting in part from the land claims agreements would take time to emerge.

In all settlement areas, other than the Naskapi area, the data shows a substantial increase in educational attainment; more people in the communities are staying in school and more are graduating with at least a high school education. This improvement cannot be directly attributed to the land claims agreements but it is an indication that the improvements anticipated from the agreements appear to be emerging gradually.

Table 7: Housing Index

Settlement Area	2001 Pop.	1981	1991	1996	2001
JBNQA (Inuit portion)	9334	0.54	0.67	0.75	0.64
NEQA (Naskapi)	540	N/A	0.64	0.64	0.57
Inuvialuit	5,254	0.62	0.74	0.73	0.79
Gwich'in	4482	0.64	0.76	0.78	0.81
Sahtu	2326	0.65	0.70	0.68	0.73
Total	21,936	0.61	0.70	0.72	0.71

The housing index is comprised of two measures. The first measure is the quantity of housing, which is measured by the proportion of the population living in dwellings with no more than one person per room. The second measure relates to housing quality, which is measured by the proportion of the population reporting that their dwellings were not in need of major repairs. These measures are given equal weight in the index. The presumption is that as resources and capacity increase in the settlement area communities, the quantity and quality of housing would improve.

Table 7 illustrates that in the three NWT settlement areas, there has been gradual yet steady improvements in housing, whereas in the two Quebec settlement areas, there has been a recent deterioration. Early data for the Naskapi area were not available, but in the case of the James Bay Inuit communities, there has been substantial improvement throughout the 1980s and early 1990s, nevertheless, there has been a decline since that time. This may be explained by the ageing of housing stock that was initially put in place as resources and capacity improved.

Table 8: 2001 Population and Overall Community Well-Being Index, 1981-2001

Settlement Area	2001 Population	1981	1991	1996	2001
JBNQA (Inuit portion)	9334	0.38	0.63	0.67	0.66
NEQA (Naskapi)	540	N/A	0.60	0.59	0.60
Inuvialuit	5,254	0.57	0.64	0.71	0.72
Gwich'in	4482	0.61	0.67	0.73	0.73
Sahtu	2326	0.59	0.63	0.69	0.73
Total	21,936	0.61	0.67	0.73	0.73

In summary, the CWB data does not establish a link between the land claims agreements and the types of modest social and economic improvements indicated by the data on income and employment, labour market activity, education and housing. The CWB data does however indicate that some gains have been made in the period since the agreements took effect.

Comparison with other Aboriginal and non-Aboriginal communities

Data for the five settlement areas was also compared to data from other Aboriginal and non-Aboriginal communities of similar size and remoteness in an effort to further explore the impacts that the land claim agreements may have had in terms of community well-being. The analysis indicates that both the land claim communities and Aboriginal communities without land claim agreements experienced improvements in well-being between the years of 1981 and 2001. The differences between the two community types are not statistically significant. Improvements among non-Aboriginal communities were much more modest and statistically, were significantly less than those among land claim communities. This appears to be a function of the fact that non-Aboriginal communities already had quite high scores in 1981.

Figure 1 illustrates the differences in the 2001 CWB and its components between land claim communities and Aboriginal communities without land claims, and between land claim communities and non-Aboriginal communities. Positive values result from higher scores among land claims communities. Non-Aboriginal communities have higher scores on the CWB and its components, though the difference is less dramatic on the labour force activity component, than land claim communities. T-tests indicate that all of these differences are statistically significant at the 99% confidence level. The differences between land claim communities and Aboriginal communities without land claims are smaller and more variable, and none are statistically significant. Therefore, in 2001, non-Aboriginal communities had a higher level of well-being than land claim communities with no apparent difference in well-being between land claim communities and Aboriginal communities without land claims.

Figure 1

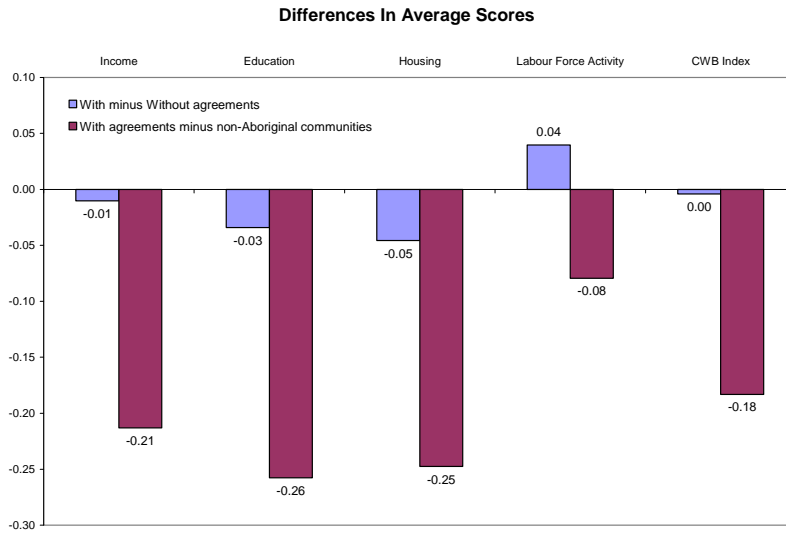


Figure 2 illustrates the same information as Figure 1 but for each of the 4 census years. Similar to Figure 1, non-Aboriginal communities have statistically higher CWB and component scores. The difference lessened however between the years of 1981 to 2001. Apart from labour force activity scores in 1996 and 2001, all differences are statistically significant at the 95% confidence level. The differences between land claim communities and Aboriginal communities without land claims are varied and statistically insignificant.

Figure 2

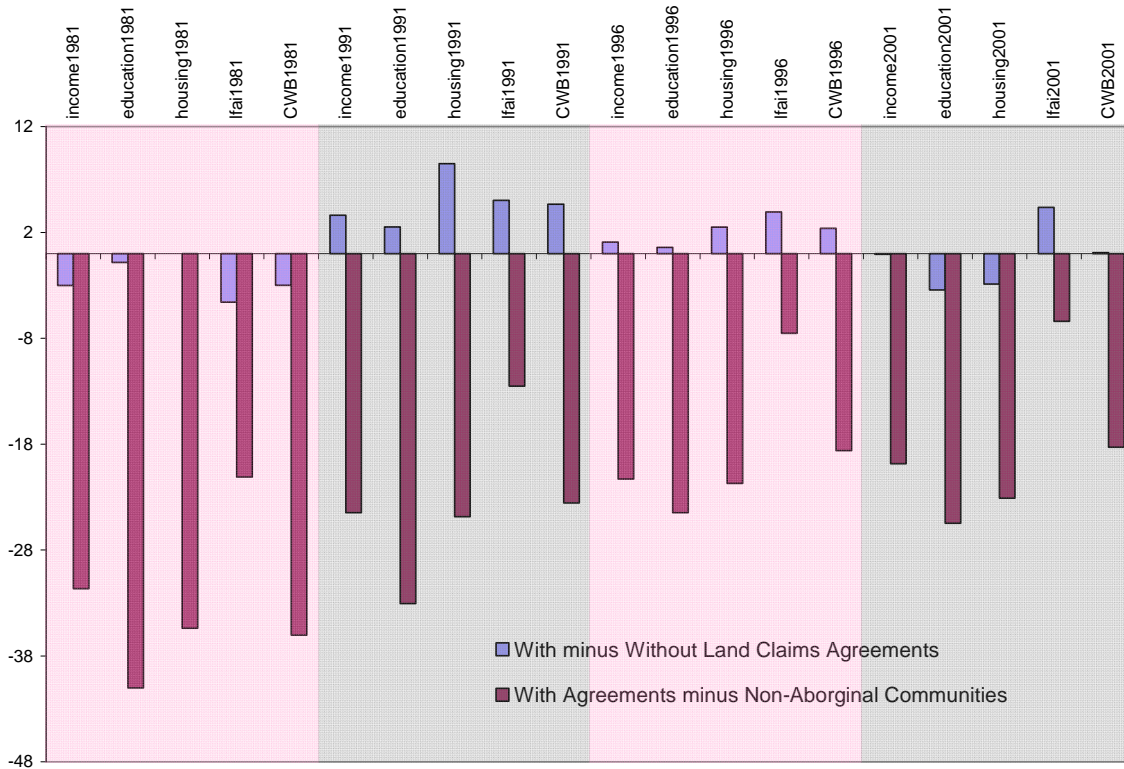
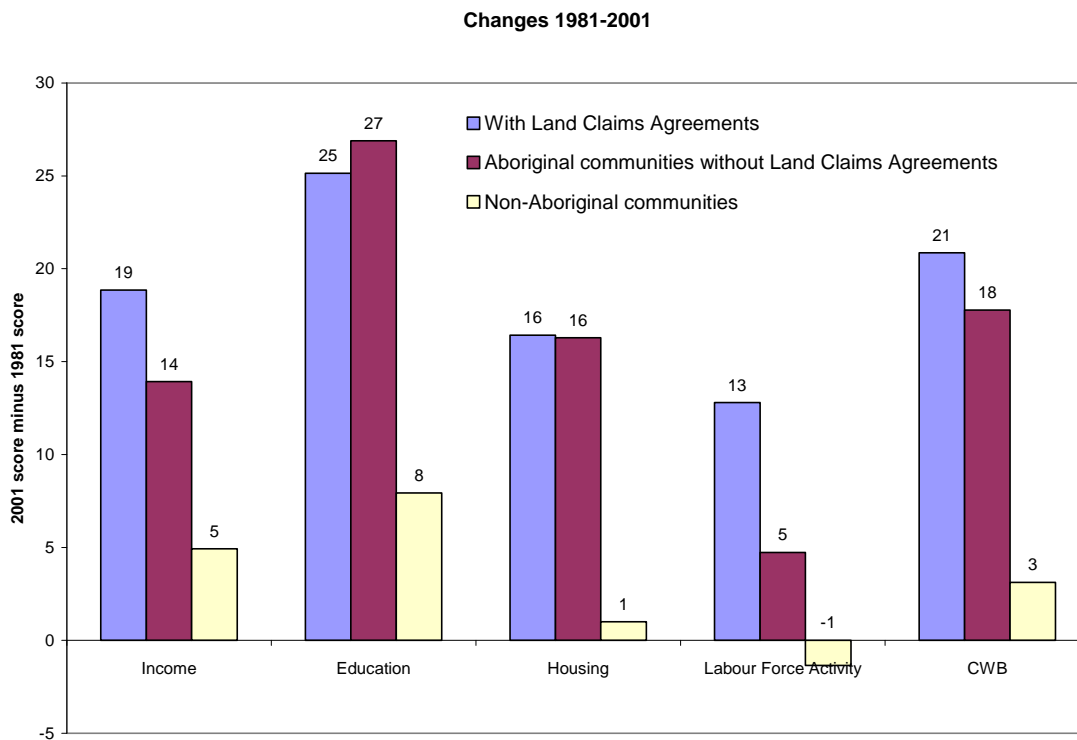


Figure 3 indicates that both land claim communities and Aboriginal communities without land claim agreements experienced significant improvements in well-being between the years of 1981 to 2001. The differences between the two community types are not statistically significant. In turn, neither type of community can be said to have improved at a higher success rate than the other. Improvements among non-Aboriginal communities were more modest and statistically significantly less than those among land claim communities. This appears to be a function of non-Aboriginal communities already having high scores in 1981. As previous research demonstrated, communities with lower scores in 1981 tended to improve more between the years 1981 to 2001.³⁸

Figure 3



This comparative analysis does not support the notion that improvements of well-being in the land claim communities are closely associated with the land claims agreements themselves. That does not mean any such association does not exist, but rather that these CWB measures do not demonstrate a direct relationship and that other factors may be more influential.

Traditional pursuits

The land claim agreements all recognize the strong interest of the Aboriginal parties to the traditional ties to their land and preserving the ability to carry out traditional economic activity. The land claim agreements do not contain provisions that financially contribute directly to

³⁸ See O’Sullivan, Erin and Mindy McHardy. 2007. “The Community Well-Being (CWB) Index: Well-Being in First Nations Communities, Past, Present, and Future.” Pp. 111-148 in *Aboriginal Well-Being: Canada’s Continuing Challenge*, edited by Jerry P. White, Dan Beavon and Nicholas Spence. Toronto: Thompson Educational Publishing.

traditional economic activities, rather they set out preferential rights to fish and wildlife harvesting.³⁹

In the three NWT settlement areas, funds are made available through GNWT programming to assist hunters, trappers and fishermen to pay for the equipment they require to maintain these traditional pursuits. There are also hunter and trapper committees in each community that are represented in the broader wildlife management bodies. The Naskapis have a Hunter Support Program, which flows from Section 19 of the NEQA.

Table 9 provides data for the year 2002, regarding the number of residents of 15 years of age or older who reported hunting, fishing and trapping that year, as well as the number of households reporting most or all (75% or more) of the meat or fish consumed is harvested in the NWT.⁴⁰ The data demonstrates that participation in traditional activities is more prevalent in the communities in the settlement areas than in the NWT overall, but that participation is still below 50% of people aged 15 years and older. This demonstrates that Aboriginal populations in the settlement areas are more likely to participate than their non-Aboriginal counterparts, since the percentages have dropped significantly in most cases when the larger communities of Inuvik and Norman Wells, both with substantial non-Aboriginal populations, are included in the calculations. The smaller, more remote communities in the three settlement areas had higher participation than the communities exposed to non-Aboriginal populations.

Table 9: NWT Participation in Traditional Activities⁴¹

Settlement Area	Hunted and Fished	Trapped	Household consumed traditional foods
Inuvialuit (including/not including Inuvik) ⁴²	43% / 58%	9% / 12%	29% / 45%
Gwich'in (including/not including Inuvik)	36% / 43%	10% / 16%	28% / 49%
Sahtu (including/not including Norman Wells)	47% / 48%	10% / 14%	35% / 47%
All of NWT	36.7%	7.2%	17.7%

Increased availability of wage-based employment and increased exposure to southern economic and cultural practices over time have tended to reduce reliance on hunting, fishing and trapping as primary economic activities, as reported by Aboriginal leaders and community residents. The

³⁹ An exception is the Inuvialuit Final Agreement, which includes the establishment of a Social Development Fund with a one-time payment of \$7.5 million by Canada to assist in the maintenance of traditional pursuits.

⁴⁰ Analysis of data on participation in traditional activities is limited because there is no systematic data available for the period when the land claim agreements were signed and, until recently in the NWT and through the Aboriginal Peoples Survey at Statistics Canada, there has been no ongoing effort to track participation. The Aboriginal Peoples Survey did not collect data for the Naskapi community of Kawawachikamach, and the Quebec Bureau of Statistics does not report any data for that community relating to participation in traditional activities. The only available data is for a single time period in 2002 in the NWT.

⁴¹ Data for this table is drawn from GNWT Community Statistical Profiles available on the GNWT Bureau of Statistics website. The data was collected for a *special study, the 2002 Regional Employment & Harvesting Survey*, and is based on in-person interviews with community residents 15 years and older.

⁴² Data for Inuvik and Aklavik are included in both the Inuvialuit and Gwich'in data because those communities overlap the two settlement areas and have substantial populations of both groups.

land claim agreements and the modern economic activity they foster are contributing to a reduction in Aboriginal participation of traditional activities. Support for traditional activities, funded directly or indirectly through the land claim agreements, and the sense of pride and self-identity fostered by the agreements can be seen as maintaining participation in traditional pursuits.

Knowledge of Aboriginal languages

The land claim agreements all recognize the interest of the Aboriginal parties in preserving and strengthening their traditional language and culture. Table 10 illustrates that in the large majority of communities, Aboriginal language ability has diminished. The rate of ability is more than 50% in only three of the thirteen communities in the three settlement areas. In one community (Holman) the language ability has increased.

Table 10: Percentage of Aboriginal Population 15 Years and Older, by Ability to Speak and Aboriginal Language, 1984-2004⁴³

Community	2004	1999	1994	1989	1984
Tuktoyaktuk	28.3	25.3	30.1	37.7	35.8
Holman	76.3	58.2	71.3	96.4	69.8
Paulatuk	..	27.0	25.4	32.1	28.6
Sachs Harbour	26.9	27.6	26.1	38.0	43.5
Aklavik	19.3	18.7	28.1	21.8	23.8
Inuvik	17.6	24.8	25.3	26.5	35.2
Fort McPherson	22.7	27.4	23.7	30.8	27.2
Tsiigehtchic	24.2	31.3	39.8	43.1	74.6
Deline	95.8	93.4	96.2	98.3	97.1
Tulita	47.3	62.9	61.3	82.0	84.8
Colville Lake	65.3	76.2	95.7	95.3	100.0
Fort Good Hope	41.1	47.7	53.8	81.0	69.1
Norman Wells	26.9	28.7	36.4	51.5	65.9
Northwest Territories	44.0	45.1	51.0	55.6	59.1

Census data shows that in Kawawachikamach, in the year 2001, 97% of people within the community spoke the Naskapi language and that in the year 2006 the percentage had dropped to 91%, reflecting primarily an increase in non-Naskapi residents in the community. Community leaders concur that the vast majority of Naskapi people speak the language fluently and that much of the business and social interaction in the community is conducted in Naskapi.

Interviews for the evaluation indicate a major concern in the NWT for the long-term strength of local language and culture. For the Sahtu and Gwich'in in particular, the reduction in knowledge of their language was attributed largely to the overall influence of the Residential School system as well as the lack of traditional activities within the communities. There is also some optimism displayed regarding the current efforts which are being made that may be able to reverse the trend, particularly among Inuvialuit and Naskapi leaders.

⁴³ The GNWT draws on Census data and its own periodic surveys to produce statistics on the prevalence of ability to speak Aboriginal languages

Prevalence of social dysfunction

Interviews in the communities demonstrate considerable concern regarding the social welfare of residents in the settlement areas, particularly towards young people. Violent crime, drug and alcohol abuse and vandalism are viewed as growing problems among youth. Community members cite the exposure to the wage economy, modern lifestyles, unemployment and lack of constructive activities for young people.

Crime rates

A 2007 GNWT Bureau of Statistics study found that the rates for the year 2006, for the NWT were 5.3 times the Canadian rate and that violent crime rates were 7 times the national average, only Nunavut comes close to the rates in the NWT.⁴⁴ Further, the study found that while national crime rates declined by 3% and violent crime rates by 1% between the years 1996 to 2006, NWT crime rates rose by 65% and violent crime rates rose by 28% in the same time frame.

Substance abuse

Since the year 1996, there has been a trend towards a higher rate of alcohol and drug use among Aboriginal and non-Aboriginal people in the Western Northwest Territories, although the rates have declined since their highest point in 2004. Recent data shows a trend in the Western NWT towards increased binge drinking (defined as drinking five or more drinks on an occasion), particularly among Aboriginal people. The data also shows that marijuana and hashish is used by three times more Aboriginal than non-Aboriginal users. Statistics on hard drugs were only taken for the study conducted in 1996, but they also demonstrate a similar rate of use, while solvents have been used by almost ten times the number of Aboriginal people, when compared to non-Aboriginal people in the same regions.⁴⁵

Risk factors for alcohol and drug abuse among Aboriginal people have been well-documented and include lost cultural identity, poverty and unemployment, lack of social opportunities, low education levels, availability of the intoxicant, lack of recreational opportunities, and peer group and family pressures.⁴⁶

⁴⁴ Crime in Canada's North: A Relative Perspective, NWT Bureau of Statistics, October, 2007.

⁴⁵ The findings are based on data from the 1996, 2002, 2004, and 2006 NWT Alcohol Surveys, GNWT Bureau of Statistics.

⁴⁶ Health Canada, Literature Review: Evaluation Strategies in Aboriginal Substance Abuse Programs: A Discussion, 1998.

5. Conclusions and Recommendations

5.1 Conclusions

The evaluation supports the following conclusions regarding the impacts of comprehensive land claim agreements and the extent to which the objectives established for CLCAs have been achieved.

- The federal government has fulfilled the terms of the comprehensive land claim agreements with respect to the transfer of funds and the recognition of rights to land to the Aboriginal signatories. Moreover, as prescribed under the agreements, the governance, administrative and financial bodies as well as the land and resource co-management boards and committees have been established.
- Comprehensive land claim agreements have created certainty and clarity regarding land ownership and use of land and resources. This has reduced the risk associated with legal challenges and created an environment that has facilitated investment.
- The land and resource management and regulatory regime established under the comprehensive land claim agreements have resulted in a collaborative and consensus-based decision-making process that is providing Aboriginal people with a meaningful voice on issues affecting their lands and resources.
- The comprehensive land claim agreements have been an important contributor in transforming the role of Aboriginal people in the economy by contributing to the development of Aboriginal infrastructure and Aboriginal business development. This has resulted in communities being well-positioned to take advantage of resource and other economic development opportunities.
- There have been modest gains in measures of income, employment, education and housing in the settlement areas since the agreements have been put in place though the evaluation was unable to determine whether the gains in well-being were directly linked to the land claims agreements.
- There has been insufficient recognition by the federal government of the costs and organizational and training requirements associated with the consultative approach and the land and resource management structures established under the agreements.
- There has been a lack of targeted, northern-appropriate federal economic development support that addresses the need to train and educate residents, develops strategies to retain those currently employed, and identifies business opportunities in remote communities.

- There is a perception among Aboriginal officials that the federal government has been primarily interested in addressing the letter of the agreements and not the true spirit and intent, resulting in barriers to progress. From this perspective the objectives of the agreements have not yet been reached, though funds have been transferred, rights to land recognized, and bodies established as agreed. Differences in interpretation of objective provisions have meant that the anticipated change in relationship between the federal government and Aboriginal signatories towards greater collaboration and trust has not been realized.

5.2 Recommendations

It is recommended that INAC:

1. In partnership with Aboriginal organizations and other federal departments and agencies, consider leading the establishment of a policy for the implementation of comprehensive land claims which would clarify roles and responsibilities and the federal approach to implementing CLCAs.
2. Work with central agencies and other federal departments and agencies to establish a senior-level working group charged with overseeing issues that may arise in agreement implementation.
3. Work in partnership with Aboriginal and provincial/territorial signatories to set specific objectives, establish targets, monitor progress and take remedial action as required to properly implement agreements.
4. Work with land and resource management boards to streamline and strengthen consultative processes and identify training and administrative needs.
5. Promote training and business development tailored to northern needs and circumstances, taking into account the high cost of delivering programs in the North.

5.3 Management Response and Action Plan

Over the years, Government-Aboriginal relations have moved through various stages from initial contact, to decline/assimilation, to Aboriginal revival, to a period of reconciliation and renewal. During the earlier phases, Canada refused to recognize Aboriginal rights and title to land and, prior to 1982, could unilaterally extinguish these rights. The settlement of land claims agreements constitutes an enormous step forward in Government-Aboriginal relations. Now from the onset, such treaties strive to build a new and more progressive relationship with Aboriginal peoples for today's world and into the future.

Recommendation 1:

Recommendation	Actions	Responsible Managers	Implementation date
In partnership with Aboriginal organizations and other federal departments and agencies, consider leading the establishment of a policy for the implementation of comprehensive land claims which would clarify roles and responsibilities and the federal approach to implementing CLCAs.	Implementation Branch is in the process of establishing the principles, processes and clarified roles and responsibilities within the federal government required to implement land claim and self-government agreements in a comprehensive manner, and will continue to engage with other government departments and agencies and Aboriginal groups as this work progresses.	Director General, Implementation Branch, Treaties and Aboriginal Government (TAG)	To be complete: September 2009 - Establishment of Guidelines

Recommendation 2:

Recommendation	Actions	Responsible Managers	Implementation date
Work with central agencies and other federal departments and agencies to establish a senior-level working group charged with overseeing issues that may arise in agreement implementation.	A proposal to establish an implementation management framework, including a senior level cross-government committee, is being developed. In the interim, the Federal Steering Committee, made up of senior representatives from other government departments and central agencies, have agreed to provide an oversight function. The proposal will go to the Federal Steering Committee in June 2009.	Director General, Implementation Branch, TAG	To be completed: June 2009 - Decision by the Federal Steering Committee March 2010 - Establishment of a Committee

Recommendation 3:

Recommendation	Actions	Responsible Managers	Implementation date
<p>Work in partnership with Aboriginal and provincial/territorial signatories to set specific objectives, establish targets, monitor progress and take remedial action as required to properly implement agreements.</p>	<p>Phase 1: Enhanced Treaty Obligation Monitoring System to track federal obligations.</p> <p>Phase 2: Develop tools to promote use of results-based management.</p> <p>Pilot with signatories on a new approach for annual reports that focus on joint practices, indicators, monitoring and reporting.</p> <p>The principles of the department's SMART reporting initiative will be applied to this exercise.</p>	<p>Director General, Implementation Branch, TAG</p>	<p>To be completed: October 2009 – Treaty Obligation Monitoring System in place</p> <p>March 2010 – Pilot annual report</p>

Recommendation 4:

Recommendation	Actions	Responsible Managers	Implementation date
<p>Work with land and resource management boards to streamline and strengthen consultative processes and identify training and administrative needs.</p>	<p>Board Relations Secretariat to identify key issues/barriers.</p> <p>INAC continues to work on a federal response to the McCrank report and is committed to engaging partners and regulators in an action plan to move forward by summer 2009.</p>	<p>Director General, Resource, Natural Resources and Environment Branch, Northern Affairs</p> <p>Support from: Director General, Implementation Branch, TAG</p>	<p>To be completed: August 2009 – Action plan</p>

Recommendation 5:

Recommendation	Actions	Responsible Managers	Implementation date
<p>Promote training and business development tailored to northern needs and circumstances, taking into account the high cost of delivering programs in the North.</p>	<p>Work with individual signatory groups on specific economic development initiatives.</p> <p>Support development of a new federal framework for Aboriginal economic development.</p> <p>Support development of northern economic development office.</p> <p>To be implemented by the Northern Regional Development Agency when established.</p>	<p>Director General, Northern Strategic Policy Branch, Northern Affairs</p> <p>Support from: Director General, Strategic Policy Branch, Lands and Economic Development</p> <p>Director General, Implementation Branch, TAG</p>	<p>Started: January 2009</p>

Appendix A: Land and Resource Management Bodies

Land and resource management bodies established as a result of the land claim agreements

Sahtu

Sahtu Land Use Planning Board

This Board develops the land use plan for the conservation, development and utilization of land, water and resources in the Sahtu settlement area.

Sahtu Land and Water Board

This Board provides for conservation, development and utilization of the land and water resources in the Sahtu settlement area for the benefit of residents of the settlement area as well as the Mackenzie Valley. When developments are proposed the board reviews the applications and consults with communities and appropriate government agencies before granting the permits and licenses to develop.

Sahtu Renewal Resources Board

This is a co-management board that acts in the public interest to manage and protect the wildlife and forestry resources of the Sahtu settlement area. The board meets twice per year, with the first meeting dealing with operations and budget approvals for research, while the second meeting reviews research and management projects and identifies priorities for investigation.

Mackenzie Valley Land and Water Board⁴⁷

The MVLWB has three main functions within the Mackenzie Valley: issues land use permits and water licenses in any unsettled claims; processes trans-boundary land and water use applications; and, ensures consistency in the application of the legislation throughout the region. The MVLWB, along with the above boards, regulate the use of land, water and the deposit of waste.

Mackenzie Valley Environmental Impact Review Board⁴⁸

This is a co-management board that serves as an independent administrative tribunal to examine the environmental impacts and concerns that may arise with regard to proposed developments.

This board can conduct further research into any issues raised during the preliminary

⁴⁷ The MVLWB was established as a result of the Sahtu and Gwich'in (and other NWT) land claim agreements, and serves the entire Mackenzie Valley besides the Inuvialuit Settlement Area.

⁴⁸ The MVEIRB was created as a result of the Sahtu and Gwich'in (and other NWT) land claim agreements, and serves the entire Mackenzie Valley besides the Inuvialuit Settlement Area.

environmental assessment of a particular development plan. It responds to requests for review that come from screening bodies, and can also initiate reviews independently.

Gwich'in

Gwich'in Land Use Planning Board

This Board develops the land use plan for the conservation, development and utilization of land, water and resources in the Gwich'in settlement area.

Gwich'in Land and Water Board

This Board provides for conservation, development and utilization of the land and water resources in the GSA for the benefit of residents of the settlement area as well as the Mackenzie Valley. When developments are proposed the board reviews the applications and consults with communities and appropriate government agencies before granting the permits and licenses to develop.

Gwich'in Renewable Resources Board

This is a co-management board that acts in the public interest to manage and protect the wildlife and forestry resources of the GSA. The board meets twice per year, with the first meeting dealing with operations and budget approvals for research, while the second meeting reviews research and management projects and identifies priorities for investigation.

Inuvialuit

NWT Water Board – Inuvialuit Settlement Region

This Board provides for the conservation, development and use of water resources of the NWT in the Inuvialuit Settlement Region (ISR). It administers application forms for development and reviews applications for both environmental and socio-economic impact effects. It also holds public hearings if significant, potential negative effects are envisioned so that applicants can answer and discuss issues with the Inuvialuit communities.

Environmental Impact Screening Committee

This Committee screens all development proposals that could impact the Inuvialuit Settlement region, to determine what negative impact these developments could have on the environment or wildlife harvesting. It has also developed Operating Guidelines and Procedures to help developers, governments and communities better understand the process.

Environmental Impact Review Board

The EIRB carries out the public review of development projects that are referred to it by the EISC. It makes recommendations to the EISC with regards to remedial measures that should be taken to make a project less harmful to the environment and to wildlife.

Inuvialuit Game Council⁴⁹

The IGC represents the collective interest of all of the Inuvialuit organizations as it pertains to wildlife and habitat management in the ISR. It then presents those concerns to the co-management groups mandated to decide on land and water use licenses and permits.

Wildlife Management Advisory Council (NWT)

This Council focuses on the conservation of terrestrial wildlife species in the ISR in the NWT. It advises ministers on the management, research and regulation of wildlife, harvesting in the Western Arctic Region and habit. It also reviews legislation and makes recommendations to the federal government for any proposed Canadian position regarding international issues that might affect the region.

Wildlife Management Advisory Council (North Slope)

This Council is the Yukon counterpart to the WMAC in the NWT, covering the Yukon portion of the Inuvialuit Settlement Region. It provides advice to federal or territorial ministers regarding the management and regulation of wildlife habitat, and harvesting in the Yukon North Slope.

Fisheries Joint Management Committee

The FJMC assists the federal government and the Inuvialuit in administering rights and obligations related to fisheries. It advises the Minister on the management of fisheries and marine mammals in the ISR.

*Naskapi and JBNQA*⁵⁰

Kativik Environmental Advisory Committee

This Committee advises governments and the KEQC on any issue relating to any development by assessing its environment and social impact. It reviews and provides advice on the laws, regulations and policies that relate to the natural and social environments.

Kativik Environmental Quality Commission

The KEQC is the official body responsible for administering and supervising the environmental and social impact assessment procedure in the region.

Federal Review Panel North

This is a Branch of the Canadian Environmental Assessment Agency which examines the potential impacts that developments can have on a region. The Review panel encourages public participation in the review and screening of projects, as well as conducting public meetings and hearings. The Panel is a group of experts selected on the basis of their knowledge and appointed

⁴⁹ The IGC was created in 1983, just prior to the completion of the IFA, in anticipation of the role mandated for it under the agreement.

⁵⁰ Only the Hunting, Fishing and Trapping Coordinating Committee have a designated Naskapi member (the Chief). The other three bodies established under the JBNQA have membership from the Kativik Regional Government, which is a regional public government with a Council member from the Naskapi community of Kawawachikamach. Currently no Naskapi residents are appointed to these bodies by the KRG.

by the Minister of the Environment to assess a project and submit recommendations to the Minister.

Hunting, Fishing and Trapping Coordinating Committee

This committee reviews, manages and supervises the regimes that were laid out in Ch. 24 of the JBNQA. The committee also works with the provincial and federal ministers in the management of wildlife species in the territory.