



Aboriginal Affairs and  
Northern Development Canada

Affaires autochtones et  
Développement du Nord Canada

## ***Final Report***

# ***Evaluation of the Impacts of Comprehensive Land Claims and Self-Government Agreements***

## ***Federal and Inuvialuit Perspectives***

***Project No. 11035***

November 2013

Evaluation, Performance Measurement,  
and Review Branch  
Audit and Evaluation Sector, AANDC

Inuvialuit Regional Corporation



Canada 

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# ***Executive Summary***

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Comprehensive land claim agreements and self-government agreements are based on two federal government policies: The *Comprehensive Land Claims Policy (1986)*; and the *Government of Canada's Approach to Implementation of the Inherent Right and the Negotiation of Aboriginal Self-Government (1995)* - most commonly referred to as the *Inherent Right Policy*. Moreover, in accordance with the *British Columbia Treaty Commission Act, 1995*, negotiations in British Columbia follow a unique negotiation process where negotiations are overseen by an independent facilitator, the British Columbia Treaty Commission.

The Evaluation, Performance Measurement and Review Branch of Aboriginal Affairs and Northern Development Canada (AANDC) undertook an Evaluation of the Impacts of Comprehensive Land Claims and Self-Government Agreements. The purpose of the evaluation was to assess relevance and the extent to which expected outcomes of comprehensive land claim agreements and self-government agreements are being achieved. Terms of Reference for the evaluation were approved by the Department's Evaluation, Performance Measurement and Review Committee in June of 2012.

AANDC engaged the Inuvialuit Regional Corporation to participate in the evaluation process. AANDC's vision is to conduct performance measurement and evaluation work with Aboriginal signatory groups with the expectation that this level of heightened engagement will allow parties to articulate their interests and target performance measures and evaluation work to meet their own specific needs and the needs of all parties.

The evaluation report contains three sections: the federal component; the Inuvialuit component; and conclusions and recommendations.

## ***Federal Component***

The scope of the federal component includes stand-alone comprehensive land claim agreements and claims-related self-government agreements. Stand-alone self-government agreements were not included in this evaluation. The evaluation, though covering all aspects of modern treaties, focuses on lands, resources and economic development. An evaluation of self-government, to take place in fiscal year 2014-15, will further assess the impacts related to governance, programs and services.

Evaluation results were based on the analysis of data obtained through document and literature review, key informant interviews, file review, financial and economic analysis, statistical analysis, contingent liability analysis and gender analysis.

The federal component supports the following findings regarding the relevance and performance of modern treaties.

## *Relevance*

Canada has established eight stand-alone comprehensive land claim agreements and 16 comprehensive land claims with related self-government agreements, which cover over 40 percent of Canada's land mass. These agreements have established an ongoing relationship regarding Aboriginal rights and title in Canada. The implementation of modern treaties remains aligned with federal government priorities, roles and responsibilities.

Where modern treaties have been concluded, they aid Canada in better managing the reconciliation of s.35 rights based upon negotiated rather than court-dictated outcomes. In this way, modern treaties have made an important contribution to minimizing court disputes concerning rights and title and have produced valuable and positive results for government, Aboriginal communities and the broader Canadian society. Evaluation findings suggest, however, that the current s.35 policy framework is not fully responsive to the evolving legal framework.

There is a continuing need for clear, unambiguous agreements and close monitoring of the implementation of these agreements in order to mitigate legal and contingent liability risks as well as ensuring ongoing positive working relationships with treaty partners.

## *Performance*

Modern treaties provide a number of mechanisms through which they support economic development. The formalization of property rights helps individuals derive full benefits from the ownership of resources, which allows for the maximization of gains from trade and supports other transactions in the economy. In addition, modern treaties provide for direct capital transfers to beneficiary organizations, which have the potential to support investment activity as well as social and educational initiatives with possible long-term economic benefits. These benefits represent significant progress towards the modern treaties' immediate expected outcomes. Specifically, the agreements provide structures for clear and formalized land ownership leading to well understood rights regarding management and access. In addition, the formalization of property rights also provides certainty of ownership and contributes to a more stable economic environment.

The Inuvialuit Final Agreement was examined in detail as part of the federal component to assess results from at the intermediate outcome level. The analysis demonstrated how provisions in the Agreement have provided additional development benefits. It is very unlikely that the corporate structures would have been formed in the absence of the Inuvialuit Final Agreement. These corporations, including the Inuvialuit Trust, have been active in the regional economy, providing both direct and indirect benefits to signatories of the Agreement. Not the least of these is direct dividend payments to beneficiary shareholders. Despite these gains, there does not seem to be strong evidence of a marked change in other aspects of social and economic development in the Inuvialuit Settlement Region.

These findings were consistent with an analysis of social and economic indicators based on the 2006 Census data, which suggests that Aboriginal signatory groups lag behind both the non-Aboriginal population and the Aboriginal identity population in education, income, and labour force characteristics, all which are important to full participation in the Canadian economy and society. However, there remains a critical lack of ongoing monitoring and analysis regarding the impacts of modern treaties to fully understand the progress being made.

Agreements and side agreements provide the structures to support the intermediate outcomes. Structures for governance, programs and services, land and resources management are strongly in place, with structures for economic development in place but not included in all agreements. Though these structures are in place, there remains the perception that modern treaty obligations have not been fully implemented, resulting in barriers to progress. Additional analysis, specifically related to how well the federal government is implementing the provisions contained in modern treaties, needs to be undertaken.

### *Inuvialuit Component*

The Inuvialuit Final Agreement is a stand-alone comprehensive land claim. The goals of the Agreement are to:

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

The Inuvialuit component focuses on the socio-economic impact of the Inuvialuit Final Agreement by identifying the strengths and threats impacting progress towards achieving the goals of the Agreement.

The research for the Inuvialuit component was based on analysis of key informant interviews and an extensive literature review of Inuvialuit Regional Corporation's internal documents, reports, and publications.

The Inuvialuit component supports the following findings regarding the socio-economic impact of the Inuvialuit Final Agreement.

#### *Ownership, Access to, and Managing Lands and Resources*

One of the Inuvialuit Regional Corporation's strengths is its institutional stability, which is well recognized by governments and industry. This underpins the stability of its participation in the co-management regime, along with its own land management. It is also a strong element in the positioning of the Inuvialuit Regional Corporation as a credible and equal partner with governments and industry in relation to land management decision making. Obstacles in the way of progress toward effective land management and administration are outside of the Inuvialuit Regional Corporation's control, and require the Inuvialuit Regional Corporation to put resources into strategizing, negotiating and mitigating these obstacles. In some respects, this is simply part

of its organizational mandate, but it nonetheless requires expenditure of resources better spent elsewhere.

### *Cultural Vitality*

Issues with respect to promoting cultural vitality and the aligned goals of the Inuvialuit Final Agreement are ones that relate to a combination of power relations, resources, and ongoing colonization impacts. If the Inuvialuit Regional Corporation's efforts toward promoting and developing cultural vitality are to succeed, to a large extent individual Inuvialuit must take responsibility for living their culture to the greatest extent possible. Canada, for its part, must recognize that this personal responsibility is most fully realized when there are supports and resources to draw on from the larger community. Establishing those resources is an area where the treaty partners each have a role. In particular, Canada and the Government of the Northwest Territories must view the Inuvialuit Regional Corporation as a service delivery partner whose capabilities are directly impacted by the funding and accountability approaches taken by funders.

### *Institutions and Decision Making*

The Inuvialuit Regional Corporation is a well-established, stable, financially independent institution that meets all criteria for success and stability set out in academic research projects relating to Indigenous governance. This reality underpins its capacity and success with respect to its organizational scope. However, the Inuvialuit Regional Corporation's progress toward achieving its land claim goals is continually hindered by external policy choices of partners. This is with respect to both its institutional functionality and with respect to the social and living conditions of the Inuvialuit population, which creates issues both with demand for services and with respect to its future institutional development.

### *Economic Opportunity*

A different approach needs to be taken to increase economic wellness in the Inuvialuit Settlement Region. Efforts to promote and provide economic opportunity are beyond land claim implementation on its own. Critical to a different approach is understanding that the characteristics of the "subsistence economy" in most small communities in the Inuvialuit Settlement Region should not be interpreted as failed capitalism. Subsistence economy characteristics – such as that reciprocity rather than profit is the animating logic of economic activity – need to be understood as features of the system rather than issues or problems to be solved or made to disappear. This understanding allows for economic approaches premised on features of the subsistence economy, rather than features of a non-existent market economy.



## *Social Development*

The Inuvialuit Regional Corporation's institutional stability positions it to credibly and ably provide social policy programs to its beneficiaries on behalf of and in partnership with other external organizations. Notably, it has begun significant work on identifying and gathering statistical data as a basis for institutional program focus and delivery. What undermines Inuvialuit progress toward the social goals of the land claim lies mostly outside of the control of Inuvialuit Regional Corporation. In particular, colonial policy-induced social suffering poses a significant near-term and long-term threat to the Inuvialuit Settlement Region's social development, the institutional development and stability of the Corporation, and the potential for future generations to continue the impressive success achieved to date.

## *Conclusions*

The evaluation found that comprehensive land claims and self-government agreements have put in place structures for governance, programs and services, land and resource management, and economic development. In the case of the Inuvialuit, the stable, credible, highly functional institutional structures that are in place at the corporate level, position the Inuvialuit Regional Corporation to work towards realizing the Inuvialuit Final Agreement goals. It is unlikely that the corporate structures would have been formed in the absence of the Inuvialuit Final Agreement.

However, social and economic indicators suggest that Aboriginal signatory groups lag behind both the non-Aboriginal population and the Aboriginal identity population in education, income, and labour force characteristics. The Inuvialuit component found that the Inuvialuit Regional Corporation's institutional stability and economic success are threatened mainly by the opportunity costs created by its resources being required to address social issues. Socio-economic conditions faced by a majority of its shareholders mean that many Inuvialuit are not being positioned to gain the skills and experience required to ensure the continued success of the Corporation and its socio-economic interests. Across many agreements there remains the perception that modern treaty obligations have not been fully implemented, resulting in barriers to progress.

## *Recommendations – Federal<sup>1</sup>*

It is recommended that AANDC:

1. Review the recommendations stemming from the Inuvialuit component, and provide comments on behalf of Canada to the Evaluation, Performance Measurement and Review Committee on the Inuvialuit recommendations.
2. Continuing with the Implementation Change Agenda, strengthen the “whole of government approach” to monitoring and implementing treaty obligations and risks.

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<sup>1</sup> Recommendations stemming from the Inuvialuit component are found in Section Three of this report and are addressed in Recommendation 1.

3. Undertake a research agenda to support the monitoring of the impacts of modern treaties.
4. To improve results-based reporting, coordinate the ongoing monitoring of the effectiveness of the implementation of modern treaties.

# ***Management Response and Action Plan***

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**Project Title: Evaluation of the Impacts of Comprehensive Land Claims and Self-Government Agreements**  
**Project #: 11035**

## **1. Management Response**

This evaluation is the first of three evaluations that will be used in 2015 to fulfill Canada's requirements for the renewal of financial authorities related to comprehensive land claims and self-government agreements.

A joint approach was undertaken with the Inuvialuit Regional Corporation which allowed for an in-depth evaluation from both perspectives. However, performance measurement methodologies in the future must include all treaty partners for it to be an effective method of measuring the impacts of comprehensive land claims and self-government agreements. Analysis that excludes the role of one or more treaty partners lacks the full context required to create a clear path to improve on the impacts of these agreements.

The evaluation concluded that the implementation of modern treaties remains aligned with federal government priorities, roles and responsibilities. It also concluded that: "modern treaties have made an important contribution to minimizing court disputes concerning rights and title and have produced valuable and positive results for government, Aboriginal communities and the broader Canadian society. Evaluation findings suggest, however, that the current s. 35 policy framework is not fully responsive to the evolving legal framework". Finally, the evaluation noted: "There however remains a critical lack of ongoing monitoring and analysis regarding the impacts of modern treaties to fully understand the progress being made".

The evaluation findings are consistent with the Implementation Branch's current work in implementing a "whole of government approach" to monitoring and implementing obligations and risks. In 2009, an Implementation Management Framework was approved by the Federal Steering Committee for a three year pilot. The Implementation Management Framework seeks to better coordinate the federal response to the implementation of Canada's legal obligations. Included is the development of guides and other resource material for federal implementers and accountability and monitoring tools such as CLCA.net and the Treaty Obligation Monitoring System. The Implementation Management Framework is currently being evaluated as to its efficacy and this work is scheduled to be completed in the fall of 2013.

Although the evaluation noted the extent to which comprehensive land claim and self-government agreements have impact on the ultimate outcome being: creating strong and self-reliant Aboriginal individuals, communities and governments, there were also a few limitations. In order to fully understand the impact these agreements have, it is important to have a joint evaluation with all treaty partners. While the Department reached out to several signatories for a commitment to undertake a joint evaluation, only one signatory was in a position to participate. This limits the extent to which we can assess the findings of the evaluation. The other limitation was the lack of available comparable data. With only the 2006 Census available to evaluators, it is difficult to rely too heavily on the conclusions made. These shortcomings to the evaluation methodology are addressed in our response to the evaluation recommendations.

## 2. Action Plan

| Recommendations   | Actions  | Responsible Manager (Title / Sector)                                       | Planned Start and Completion Dates   |
|---|--|--|--|
| <p>1. Review the recommendations stemming from the Inuvialuit component and provide comments on behalf of Canada to Evaluation, Performance Measurement and Review Committee on the Inuvialuit recommendations.</p> | <p>We do concur.</p>   | <p>Director, Implementation Branch, Treaties and Aboriginal Government</p> | <p><i>Start Date:</i><br/><i>Winter 2013</i></p> <p><i>Completion:</i><br/><i>Spring 2014</i></p> <p><i>Revised completion date:</i><br/><i>September 2015</i></p> |
|   | <p>Review of the Inuvialuit recommendations has begun. Canada will provide comments to Evaluation, Performance Measurement and Review Committee on those recommendations that are directed towards Canada.</p>   |  |  |
| <p>2. Continuing with the Implementation Change Agenda, strengthen the “whole of government approach” to monitoring and implementing treaty obligations and risks.</p>  | <p>We do concur.</p>   | <p>Director, Implementation Branch, Treaties and Aboriginal Government</p> | <p><i>Start Date:</i><br/><i>already begun</i></p> <p><i>Completion:</i><br/><i>ongoing</i></p> <p><i>Revised completion date:</i><br/><i>September 2015</i></p>   |
|   | <p>Work has already begun on the Implementation Change agenda and the development of resources, accountability and monitoring tools and training/assistance for other government departments.</p>  |  |  |
| <p>3. Undertake a research agenda to support the monitoring of the impacts of modern treaties.</p>  | <p>We do concur</p>  | <p>Director, Implementation Branch, Treaties and Aboriginal Government</p> | <p><i>Start Date:</i><br/><i>already begun</i></p> <p><i>Completion:</i><br/><i>ongoing</i></p> <p><i>Revised completion date:</i><br/><i>September 2015</i></p>   |
|   | <p>AANDC has approached academia with the view of supporting academic research on the impacts of comprehensive land claims agreements and self-government agreements. Any initiative to monitor impacts requires the participation of both government and Aboriginal signatories. We will continue to reach out the Land Claims Agreement Coalition with the view of collaborating on this initiative.</p> |  |  |

|   |   |   |  |
|---|---|---|--|
| 4. To improve results-based reporting, coordinate the ongoing monitoring of the effectiveness of the implementation of modern treaties. | We do concur  | Director,<br>Implementation<br>Branch, Treaties and<br>Aboriginal<br>Government | <i>Phase 1 –<br/>Amend Current<br/>PM Strategy<br/>Start Date:<br/>already begun</i><br><br><i>Phase 2 –<br/>Update PM<br/>Strategy for<br/>Program 1.3</i><br><br><i>Start: 2015/16</i><br><br><i>Completion:<br/>2015/16</i> |
|   | Implementation Branch monitors the implementation of obligations, and is currently participating in the <i>Performance Measurement Strategy for the Impacts of comprehensive land claims agreements and self-government agreements</i> to support AANDC's Performance Measurement Strategy Portfolio Action Plan, which support Program Alignment Architecture Program 1.3. |   |  |

**I recommend this Management Response and Action Plan for approval by the Evaluation, Performance Measurement and Review Committee**

*Original signed on November 8, 2013, by:*

**Michel Burrowes**

**Director, Evaluation, Performance Measurement and Review Branch**

**I approve the above Management Response and Action Plan**

*Original signed on November 18, 2013, by:*

**Gina Wilson**

**Treaties and Aboriginal Government, Senior Assistant Deputy Minister**

*The Management Response / Action Plan for the Evaluation of the Impacts of Comprehensive Land Claims and Self-Government Agreements were approved by the Evaluation, Performance Measurement and Review Committee on November 22, 2013.*

# ***Section One: Federal Component***

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# 1. Introduction

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## 1.1 Overview

The Evaluation, Performance Measurement and Review Branch (EPMRB) of Aboriginal Affairs and Northern Development Canada (AANDC) undertook an Evaluation of the Impacts of Comprehensive Land Claims and Self-Government Agreements. The purpose of the evaluation was to assess relevance and the extent to which expected outcomes of comprehensive land claim agreements and self-government agreements are being achieved.

## 1.2 Description of Comprehensive Land Claims and Self-Government Agreements

### *Background*

Comprehensive land claim agreements and self-government agreements (hereafter “modern treaties”) are based on two federal government policies: The *Comprehensive Land Claims Policy (1986)*; and the *Government of Canada’s Approach to Implementation of the Inherent Right and the Negotiation of Aboriginal Self-Government (1995)* - most commonly referred to as the *Inherent Right Policy*.

The *Comprehensive Land Claims Policy* stipulates that land claims may be negotiated with Aboriginal groups in areas where claims to Aboriginal title have not been addressed by treaties or through other legal means. Comprehensive land claims are based on the assertion of continuing Aboriginal rights and title. Comprehensive land claim agreements provide certainty and finality respecting rights to ownership, use of lands and resources, including marine resources, which may contribute to increased economic development and self-sufficiency for Aboriginal groups. They provide a framework which encourages social and economic development, thereby benefiting Aboriginal people, government and third parties. Comprehensive land claim agreements also foster the development of institutions at both the community and collaborative signatory levels that facilitate the achievement of various planned outcomes arising from the agreements.

Under the *Inherent Right Policy*, the Government of Canada’s recognition of the inherent right of self-government is based on the view that the Aboriginal peoples of Canada have a right to govern themselves in relation to matters that are internal to their communities, integral to their unique cultures, identities, traditions, languages and institutions, and with respect to their special relationship to their land and resources. Self-government agreements set out arrangements for Aboriginal groups to govern their internal affairs and assume greater responsibility and control over the decision making that affects their communities.

The other significant feature of self-government agreements is the change in relationship between the parties. A new relationship is created wherein Aboriginal signatories constitute governments in their own right. As a result, the parties to the agreements form government-to-government relationships that transform how they relate to and collaborate with

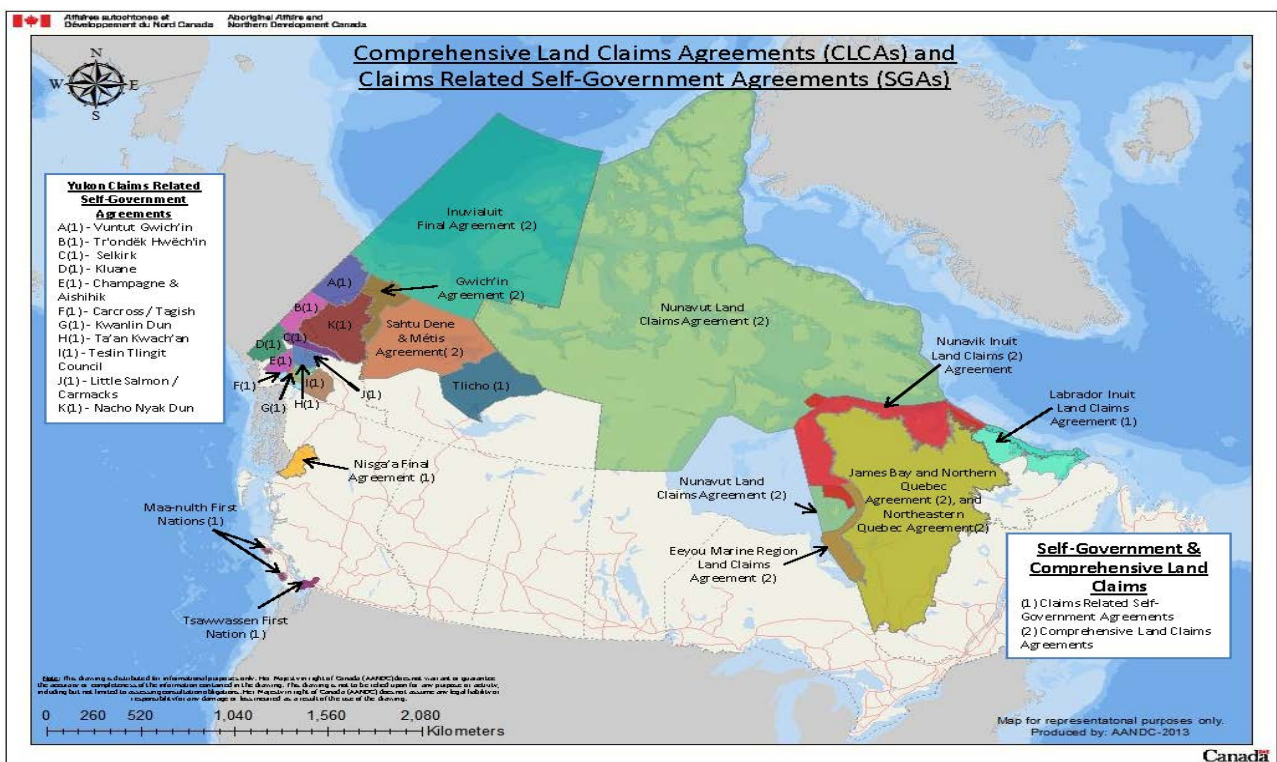


one another. Self-government agreements include a provision that the *Charter of Rights and Freedoms* will apply to Aboriginal governments and institutions in regard to all matters within their respective jurisdictions and authorities. They provide beneficiaries under the agreement with the continued protection of the Charter.

In accordance with the *British Columbia Treaty Commission Act, 1995*, negotiations in British Columbia follow a unique negotiation process where negotiations are overseen by an independent facilitator, the British Columbia Treaty Commission. These negotiations are founded upon the 19 recommendations that were made by Canada, British Columbia, and the First Nations Summit as outlined in *The Report of the British Columbia Claims Task Force of 1991*.

There are currently 24<sup>2</sup> completed modern treaties involving 94 communities, which cover over 40 percent of Canada’s land mass.<sup>3</sup> See Appendix A for listing of agreements.

- Sixteen comprehensive land claims with related self-government agreements involving 30 communities, and
- Eight stand alone comprehensive land claim agreements involving 64 communities.



<sup>2</sup> The Yale First Nation Final Agreement in British Columbia will come into effect on April 1, 2015, and is not included in the figures above.

<sup>3</sup> The evaluation does not include the two stand alone self-government agreements, Sechelt and Westbank. They will be included in an Evaluation of the Impacts of Self-Government, scheduled for fiscal year 2014-15.

## ***Management***

All parties are responsible for working together to implement the provisions of their modern treaties, for setting priorities, evaluating progress and making adjustments as necessary. The Implementation Branch of the Treaties and Aboriginal Government Sector of AANDC oversees and coordinates the cross-departmental federal role in the implementation of modern treaties.

## ***Key Stakeholders and Beneficiaries***

The primary stakeholders of modern treaties are the Aboriginal signatory groups, the federal government, and the relevant provincial/territorial government. All parties must work cooperatively towards the fulfillment of the obligations under the agreements in a transparent and accountable manner. The parties to an agreement have both party-specific and joint obligations to fulfill.

Although all Canadians, federal/provincial/territorial governments, and business/industry are expected to benefit from the settlement and implementation of modern treaties, the primary beneficiaries are expected to be the Aboriginal signatory groups.

## ***Resources***

*Table 1* illustrates the 2012/13 AANDC expenditures on the implementation of modern treaties.

**Table 1: AANDC Expenditure of Modern Treaties Implementation (Actual Fiscal Year 2012/13)**

| <b>Program Alignment Architecture (PAA):<br/>Sub Activities</b>             | <b>Actual Fiscal Year 2012/13</b>               |                    |
|---|---|--------------------|
| Implementation of Modern Treaty Obligations<br>(Sub Activity 1.3.1 PAA)     | Grants & Contributions<br>(Vote 10)             | 312,053,018        |
|   | Operating (Vote 1)                              | 7,025,573          |
|   | <b>Total</b>                                    | <b>319,078,591</b> |
| Management of Treaty Relationships<br>(Sub Activity 1.3.2 PAA) <sup>4</sup> | Grants & Contributions<br>(Vote 10)             | 298,314,586        |
|   | Operating (Vote 1)                              | 2,231,078          |
|   | <b>Total</b>                                    | <b>300,545,664</b> |
| <b>Total Implementation Costs for Modern Treaties</b>                       | <b>Grants &amp; Contributions<br/>(Vote 10)</b> | <b>610,367,604</b> |
|   | <b>Operating (Vote 1)</b>                       | <b>9,256,651</b>   |
|   | <b>Total</b>                                    | <b>619,624,255</b> |

<sup>4</sup> Financial figures do not include the sub-sub activity “Treaty Commissions” as this is related to historic treaties.

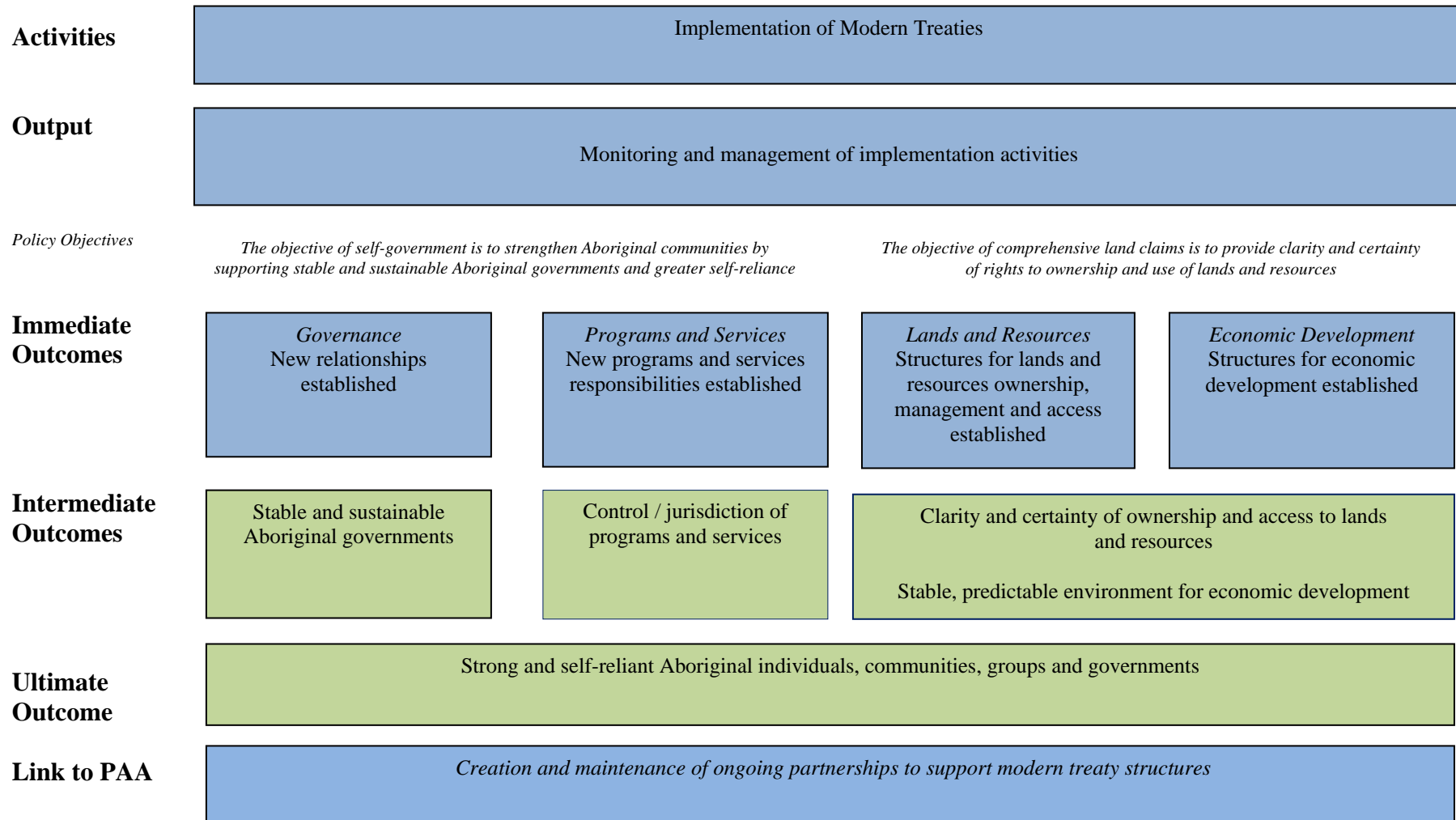
### ***Recent Evaluation and Audit Activities***

The *Impact Evaluation of Comprehensive Land Claim Agreements* was approved at the Audit and Evaluation Committee in February 2009. It found that the agreements have brought clarity and certainty to settlement lands, enabling Aboriginal groups to benefit from resource development and helping to create a positive environment for investment. The agreements have also had a positive impact on the role of Aboriginal people in their settlement area's economy and their relations with industry as well as ensuring that they have a meaningful and effective voice in land and resource management decision making. However, there has been a perception that the federal government has not sufficiently recognized the costs associated with the consultative approach and the land and resource management structures. There is also the perception among Aboriginal representatives interviewed for the evaluation 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.

The *Evaluation of the Federal Government's Implementation of Self-Government and Self-Government Agreements* was approved at the Evaluation, Performance Measurement and Review Committee in February of 2011. It found that the *Inherent Right Policy* has provided a flexible framework from which self-government has been, and continues to be, negotiated and that positive impacts have been demonstrated within self-governing communities. However, a lack of shared vision exists between the federal government and Aboriginal communities regarding self-government and how it is to be operationalized within the framework of the *Inherent Right Policy*. National Aboriginal Organizations have been highly critical of the *Inherent Right Policy* and Aboriginal governments have expressed difficulty in establishing a government-to-government relationship with the Crown. This may be contributing to misunderstandings and miscommunications regarding the interpretation of the policy and contributing to the high level of frustration that exists among Aboriginal organizations and Aboriginal communities about what has been accomplished under the *Inherent Right Policy*. Moreover, a number of inefficiencies in both the negotiation and implementation processes have been identified, many of which are currently being addressed by AANDC.

An *Audit of the Implementation of Modern Treaty Obligations* was completed in September 2013 by the departmental Audit and Assurances Services. The audit found that the Department had taken significant steps in establishing foundational elements to manage and coordinate the federal responsibilities as outlined within the specific agreements. This included the establishment of the Implementation Management Framework, the establishment of the governance structures and the development of tools and guidance documents to help other government departments fulfill their own obligations. However, to strengthen the effectiveness of the governance structures and to support and manage the implementation of the federal obligations, the audit identified opportunities to improve key elements of the Implementation Management Framework, including designing formal responsibilities and business processes for proactive monitoring of the status of federal obligations, establishing foundational elements of the regional caucuses and developing formal orientation materials for new members of the oversight bodies representing the federal governance structure.

### 1.3 Objectives and Expected Outcomes<sup>5</sup>



<sup>5</sup> Logic model as presented in AANDC's Performance Measurement Strategy for Measuring the Impacts of Comprehensive Land Claims and Self-Government Agreements, Federal Government's Perspective Document, dated June 11, 2012.

## ***2. Evaluation Methodology***

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### **2.1 Evaluation timing and scope**

Terms of Reference for the evaluation were approved by AANDC's Evaluation, Performance Measurement and Review Committee on June 22, 2012. The evaluation was conducted internally within EPMRB, with component analyses contracted externally to specialists. These include a financial and economic analysis by PRA Inc.; a statistical analysis by Ravi Pendakar; a gender analysis by Cornet Consulting and Mediation; and a literature review by Alderson-Gill and Associates.

The scope of the evaluation includes stand-alone comprehensive land claim agreements and comprehensive land claims with related self-government agreements. Stand-alone self-government agreements were not included in this evaluation.

The evaluation issues of relevance and performance (effectiveness) are included in this evaluation. The evaluation issue of performance (efficiency and economy) was included in the processes of negotiation evaluation, completed in November 2014.

The evaluation, though covering all aspects of modern treaties, focused on lands, resources and economic development. An evaluation of self-government, taking place in fiscal year 2014-15, will further assess the impacts related to governance and programs and services.

### **2.2 Evaluation methods**

Evaluation methods used in this evaluation include:

#### ***Document/Literature Review***

Review of Memoranda to Cabinet documents, Treasury Board submissions, data collected through the performance measurement strategy, previous evaluations and audits (internal and Office of the Auditor General audits), internal documents related to performance of modern treaties (such as mandated agreement reviews, subject specific reviews, annual reports), AANDC policy and performance reports. Literature review, which focused on documents related to impacts of modern treaties.

### ***Key Informant Interviews***

A total of 38 key informant interviews were conducted with representatives from the following groups:

- AANDC Headquarters (n=18). Sectors – Treaties and Aboriginal Governments, Lands and Economic Development, Northern Affairs.
- AANDC Regional Offices (n=5). Regions – Atlantic, Quebec, Northwest Territories, Nunavut, Yukon.
- Other Government Departments (n=8). Department of Fisheries and Oceans, Canadian Northern Economic Development Agency, Natural Resources Canada, Parks Canada, Environment Canada, Canadian Heritage, Health Canada, Human Resources and Skills Development Canada.
- Provincial and Territorial Governments (n=4). British Columbia, Quebec, Newfoundland and Labrador, Northwest Territories, Nunavut and Yukon.
- Northern Regulatory Bodies (n=3).

### ***File Review***

A file review was conducted to assess the extent to which each agreement was aligned with policy objectives and established structures to support the intended outcomes. Information for the file review was based on government approval documents, the final agreements and any associated side agreements (e.g. a fiscal financing agreement), implementation annual reports and any publically available information such as a public registry of laws for an Aboriginal signatory group. The file review was also informed by consultation with AANDC Implementation Branch representatives for each file. The review included the following 10 final agreements:

- Inuvialuit
- Nisga'a
- Tsawwassen
- Tr'ondëk Hwëch'in
- Gwich'in
- Nunavut
- Labrador Inuit
- James Bay and Northern Quebec
- Tlicho
- Sahtu Dene and Métis.

### ***Legal Landscape***

An analysis of the legal landscape was conducted to inform how the legal landscape related to modern treaties has evolved, the extent to which settling claims affects litigation related to Aboriginal rights, and the legal benefits to the Crown that result from settling claims.

### ***Financial and Economic Analysis***

A financial and economic analysis was conducted to assess the extent to which modern treaties have contributed to their intended outcomes from an economic perspective. This involved comparing the structures established through the agreements with existing economic development theory to establish the plausibility of achieving the intended outcomes. The Inuvialuit Final Agreement was then selected to conduct an in-depth analysis on observed economic trends. Publically available data (such as Census data and data from the Inuvialuit indicators project) and financial data provided by the Inuvialuit Regional Corporation were analyzed to determine how the agreement has effected Inuvialuit participation in the economy. The analysis included a group interview with representatives from the Inuvialuit Regional Corporation.

### ***Statistical Analysis***

An analysis was conducted to assess the contribution that individual agreements are making to the achievement of the intended long-term outcome by analysing selected economic, social and cultural indicators. The analysis draws on special tabulations drawn from the 2006 Census data and focuses on the Aboriginal identity population living in 113 Census subdivisions affiliated with one or more modern treaties.<sup>6</sup> This data was compared to the Aboriginal identity population and the non-Aboriginal population.

The Aboriginal identity population was chosen as the key group of interest over the registered population for a number of reasons. First, although everyone who is registered is considered to identify as Aboriginal, not all persons who identify are registered. Inuit, for example, are not registered. Second, choosing the identity population as the secondary comparison is also more reasonable because they are represented in more regions than the registered population.

### ***Contingent Liability Analysis***

The contingent liability analysis involved a review of amounts reported as contingent liabilities for the fiscal periods from 2003-04 to 2012-13 to assess the impacts of settling, or conversely not settling, claims on the contingent liabilities of the Crown. For this analysis, two interviews were conducted with AANDC representatives involved in the reporting of contingent liabilities related to modern treaties.

### ***Gender Analysis***

In line with the AANDC Gender-based Analysis Policy, an assessment of gender impacts related to modern treaties was conducted. The analysis included a review of relevant literature on issues related to gender participation in negotiations and decision making, protection of equality rights, matrimonial real property, and participation in traditional cultural and economic activities.

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<sup>6</sup> There are no 2006 data available for 28 areas either due to small population sizes or Global Non-Response Rates of at least 25 percent.

It also included five key informant interviews with representatives from AANDC and two interviews with the Assembly of First Nations. In addition, the analysis involved a detailed analysis of the following four agreements:

- Inuvialuit Final Agreement
- James Bay and Northern Quebec Agreement
- Nisga'a Final Agreement
- Teslin Tlingit Council

## **2.3 Quality Assurance**

The evaluation was directed and managed by EPMRB in line with the EPMRB's Engagement Policy and Quality Control Process. Quality assurance was provided through the activities of the working group and an advisory group comprised of representatives from the Treaties and Aboriginal Government Sector, Implementation Branch, Policy Development and Coordination Branch; Policy and Strategic Direction Sector, Planning Research and Statistics Branch; and Legal Services.

## **2.4 Considerations and Limitations**

### *Considerations*

- There is no requirement under modern treaties for an Aboriginal signatory group to participate in performance measurement and evaluation processes. Therefore, there is currently a reliance on periodic evaluations, in which Aboriginal signatory groups agree to participate, to support performance measurement and evaluation in the context of modern treaties.
- AANDC engaged the Inuvialuit Regional Corporation to participate in the evaluation process. AANDC's vision is to conduct performance measurement and evaluation work with Aboriginal signatory groups with the expectation that this level of heightened engagement will allow parties to articulate their interests and target performance measures and evaluation work to meet their own specific needs and the needs of all parties.

### *Limitations*

- Limited ongoing performance data related to all aspects of the logic model were available. This included data from the Treaty Obligation Monitoring System, which was not available at the time of the evaluation, and limited baseline data for use in comparing with current measures of progress.



- Statistical analysis was limited to an analysis of the 2006 Census and Household survey. The Community Well-Being index was not used as part of this study as this index, as it is currently designed, does not lend itself to being applied to modern treaties since it captures a high percentage of non-Aboriginal persons.<sup>7</sup>
- Census data for Aboriginal communities is more affected by Statistics Canada confidential guidelines than for other communities because Aboriginal communities tend to be small and the working population is lower. Therefore, Census rounding procedures and confidentiality rules can affect data quality.
- Statistical analysis was based on data pertaining to beneficiaries who live in the treaty settlement area and did not include beneficiaries who resided away from the treaty settlement area.
- One Aboriginal signatory group participated in the evaluation process though the methodology anticipated having three signatory groups participating.

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<sup>7</sup> For example, the Community Well-Being scores for Tsawwassen, 77 percent of the population captured is for non-Aboriginal persons.

## 3. Relevance

The significance of modern treaties to Canada’s political, cultural and socio-economic landscape cannot be overstated. The rights and obligations of the parties are given important legislative recognition and are legally enforceable. The agreements are given further legal effect through implementing legislation. Many of the agreements are constitutionally protected under Section 35 of the *Constitution Act, 1982* (hereafter “s.35”). Once an agreement is signed and brought into effect, a new phase begins for the parties, one which focuses on implementing the many provisions contained in the agreement. This is not a passing phase, but rather an enduring one, marking a new relationship among the parties.

### 3.1 Alignment with Government Priorities and Program Alignment Architecture

AANDC negotiates and implements modern treaties on behalf of the Government of Canada, with other federal departments being involved where agreements include their areas of responsibility or jurisdiction. The implementation of modern treaties is an important contributor to AANDC overarching mandate and currently one of the Department’s priority areas.<sup>8</sup>

During the Crown-First Nations Gathering in January 2012, Canada and the Assembly of First Nations identified treaty implementation as an immediate area for action. The Government of Canada in the 2013 Speech from the Throne stated that it would continue its dialogue on the treaty relationship and comprehensive land claims.

Implementation of modern treaties is situated within the departmental Program Alignment Architecture under the Government Pillar and the Treaty Management Program Activity as shown in *Table 2*.

Table 2: Link to Program Alignment Architecture

| Name             |   | Strategic Outcome  |
|------------------|---|--|
| Pillar           | Government Pillar                           | Good governance and co-operative relations for First Nations, Métis, Non-Status Indians, Inuit and Northerners |
| Program Activity | Treaty Management                           | Creation and maintenance of ongoing partnerships to support historic and modern-treaty structures              |
| Sub-Activity     | Implementation of Modern Treaty Obligations | Canada honours all of its obligations as set out in final agreements   |
|                  | Management of Treaty Relationships          | Improved relations between Canada and Aboriginal entities created to support treaties                          |

<sup>8</sup> 2013-2014 Report on Plans and Priorities - Aboriginal Affairs and Northern Development Canada and Canadian Polar Commission

The 2013-2014 Report on Plans and Priorities identifies specific ways in which the Department is aligning its actions with the strategic outcome. These include:

- Creating and maintaining ongoing partnerships to support relationships and structures by, as an example, leading federal government representation on implementation committees and collaborating with all signatories to fulfill Canada's obligations and to make progress on mutual goals.
- Continuing to coordinate and administer financial arrangements with respect to comprehensive land claim agreements and self-government agreements through the administration, review and renewal of Fiscal Financing Agreements and transfer expenditures to First Nations.
- Continuing to table Annual Reports in Parliament on the activities of the signatories to comprehensive land claims and self-government agreements.
- Providing training to other government departments and ensuring the accuracy of the data to increase the use of the Treaty Obligation Monitoring System and CLCA.net.

### 3.2 Alignment with Federal Roles and Responsibilities

Since 1982, Aboriginal rights and treaty rights have achieved constitutional protection. They cannot be unilaterally extinguished by the Crown and can only be surrendered with the consent of the collective.<sup>9</sup> Relying on s.35, the Supreme Court of Canada has developed the jurisprudence by articulating a legal framework that is premised on a purposive approach to the interpretation and application of s.35 and which is supported by a core principle, the honour of the Crown. The primary purpose of s.35, as identified by the Supreme Court of Canada, is the reconciliation of Crown sovereignty with existing Aboriginal and treaty rights. The core principle of Aboriginal law is honourable Crown conduct in relation to Aboriginal and treaty rights in ways which advance “the honourable process of reconciliation demanded by s.35”<sup>10</sup> and demonstrates an effort to “treat aboriginal peoples in a way ensuring that their rights are taken seriously.”<sup>11</sup>

There currently exists a very complex and shifting legal and constitutional framework. Legal developments, starting with *Calder*,<sup>12</sup> *Delgamuukw*,<sup>13</sup> *Van der Peet*<sup>14</sup> and *Sparrow*, but particularly since the *Haida and Taku River*<sup>15</sup> decisions in 2004, have changed the nature of the relationship with Aboriginal peoples, including Aboriginal expectations. These developments in

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<sup>9</sup> While the Crown may infringe those rights it can only do so if it meets the Justification test set out in *R.v. Sparrow*. [1990] 1 SCR 1075 (hereinafter “*Sparrow*”) and *R. v. Badger*, 1 SCR 771 (hereinafter “*Badger*”).

<sup>10</sup> *Haida Nation v. British Columbia (Minister of Forests)*, [2004] 3 SCR 511 at para 38 (hereinafter “*Haida*”).

<sup>11</sup> *Sparrow* at para.1119.

<sup>12</sup> *Calder et al. v. Attorney-General of British Columbia*, [1973] SCR 313 (hereinafter “*Calder*”).

<sup>13</sup> *Delgamuukw v. British Columbia*, [1997] 3 SCR 1010 (hereinafter “*Delgamuukw*”).

<sup>14</sup> *R. v. Van der Peet*, [1996] 2 SCR 507 (hereinafter “*Van der Peet*”).

<sup>15</sup> *Taku River Tlingit First Nation v. British Columbia (Project Assessment Director)*, 2004 SCC 74 (hereinafter call “*Taku River*”).

the jurisprudence suggest that the federal Crown should consider Aboriginal views in developing its vision of the Crown/Aboriginal relationship. Post-*Haida*, *Taku River* and *Mikisew Cree*,<sup>16</sup> the provinces, as the governments with the largest interests in land and resources, have demonstrated an interest in becoming active players and partners, with new ideas and approaches for addressing s.35 rights without full and final settlement treaties.

The courts, however, continue to emphasize that s.35 rights are best addressed by effective negotiation processes designed to protect a way of life and preserve distinct Aboriginal cultures.<sup>17</sup> The implementation of these negotiated agreements therefore remains an important component of the overall Crown/Aboriginal relationship.

### 3.3 Continuing Need

Once modern treaties are settled, there is a risk for a contingent liability to arise due to implementation issues, such as an Aboriginal signatory group filing a claim against the Crown for alleged non-fulfilment of the terms of the agreement. For example, Nunavut Tunngavik Inc. filed a statement of claim against the Government of Canada in 2006, asserting that the Government of Canada stands in violation of its contract and fiduciary obligations arising from the Nunavut Land Claims Agreement. The relief sought by Nunavut Tunngavik Inc. on behalf of the Inuit includes \$1 billion in damages, costs and unspecified punitive damages.

There has been ongoing criticism of Canada's approach to the implementation and interpretation of modern treaties by Aboriginal groups, the federal Auditor General and the Standing Senate Committee on Aboriginal people.<sup>18</sup> A perceived failure by Government to implement treaties can also add to an already difficult task of negotiating treaties. It acts as a further disincentive for Aboriginal groups with outstanding Aboriginal rights claims from continuing in or entering into the treaty process, thereby, ultimately creating an additional challenge to the management of s.35 rights through treaties. The 2011 Office of the Auditor General of Canada Status Report, however, found improvements in the overall implementation of modern treaties.<sup>19</sup>

There is a continuing need for clear, unambiguous agreements and close monitoring of the implementation of these agreements in order to mitigate legal and contingent liability risks as well as ensuring ongoing positive working relationships with treaty partners.

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<sup>16</sup> *Mikisew Cree First Nation v. Canada (Minister of Canadian Heritage)*, 2005 SCC 69 (hereinafter call "*Mikisew Cree*").

<sup>17</sup> *William v. British Columbia*, 2012 BCCA 285 at paras 170-173 (hereinafter "*Roger William*").

<sup>18</sup> Honouring the Spirit of Modern Treaties: Closing the Loopholes Interim Report, Special Study on the Implementation of Comprehensive Land Claims Agreements in Canada by the Standing Senate Committee on Aboriginal Peoples, May 2008.

<sup>19</sup> 2011, June Report of the Auditor General of Canada, Chapter 4 – Programs for First Nations on Reserves.

## **4. Performance – Legal, Economic, Social and Gender Impacts**

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Legal, economic, social and gender analyses were completed in order to assess the impacts of modern treaties from these perspectives.

### **4.1 Legal Landscape**

Where modern treaties have been concluded and properly implemented, they have reduced Aboriginal rights litigation with the particular treaty Aboriginal groups. Other factors have also contributed to reduced litigation, such as having a process in place to negotiate modern treaties. However, modern treaties have failed to reduce other forms of s.35 litigation with the same treaty group or with other Aboriginal groups.

Understanding why is a complex mix of legal and policy considerations. Arguably, modern treaties give rise to new source of s.35 litigation. The reality is that with the evolving jurisprudence, litigation in relation to Aboriginal rights and title has generally declined, having been replaced in large part by more responsive and cost-efficient litigation founded on principles such as the duty to consult. Duty to consult litigation is occurring where groups assert overlapping rights in relation to treaties being negotiated. It can also occur post-treaty when an Aboriginal signatory group perceives that planned government conduct adversely impacts on their new modern treaty rights. Additionally, Aboriginal groups are litigating in relation to government's conduct in negotiating, interpreting and implementing modern treaties, relying upon their understanding of the Supreme Court of Canada decisions, which have highlighted the importance of honour of the Crown, reconciliation and good faith negotiations in the overall Crown/Aboriginal relationship.

Although arguably not capable of achieving the same certainty and finality that government initially anticipated, modern treaties play an important role in placing the Crown/Aboriginal relation on a stronger legal foundation by providing greater continuity, transparency and predictability for the Crown/treaty Aboriginal group relationship. Properly implemented, these agreements advance reconciliation and provide a sound legal foundation for Aboriginal communities to advance their socio-economic interests and aspirations. With treaties giving greater clarity to an Aboriginal group's rights to land, resources, co-operative management and self-government powers, the Aboriginal treaty group is more empowered to govern itself and respond to and improve its own socio-economic conditions and interests through more accountable government. More clearly articulated, s.35 rights in modern treaties also offer the Crown and third parties far greater certainty and predictability in relation to those rights and the agreed upon Crown obligations, including its consultation obligations, in relation to those rights. In this way, the Crown and third parties have a better appreciation of the nature, scope and

content of an Aboriginal signatory group's modern treaty rights and corresponding Crown obligations related to those rights.<sup>20</sup>

The Supreme Court of Canada has repeatedly confirmed the importance of modern treaties in advancing the process of reconciliation.<sup>21</sup> It has also confirmed that an important outcome of modern treaties is providing greater clarity for Aboriginal groups' property and governance rights and the obligations of each of the parties to the treaty, and has indicated that some judicial deference should be paid to the terms the parties have agreed to through complex negotiations.<sup>22</sup> To the extent that treaties are concluded and properly implemented, they advance those objectives.

Until recently, the focus has been on reaching treaty settlements. More attention is now being given to the proper interpretation and implementation of these arrangements, including a corresponding increase in litigation in these areas. The reasons for this shift are understandable. While it is not difficult to interpret and implement initial obligations such as land and capital transfers, it is proving more challenging to meet ongoing requirements that are less concrete. Different views between Aboriginal groups and Canada exist on the approach to be applied to the interpretation and implementation of modern treaties. Since 2008, AANDC has attempted to improve the policy, processes and structures in place to implement modern treaty obligations in response to legal developments, litigation pressures and criticism from Aboriginal organizations as well as the Auditor General and the Senate Standing Committee on Aboriginal Peoples.

The Supreme Court of Canada appears to regard modern treaties as more akin to a new and evolving relationship that will need to be nurtured and advanced through the lens of the foundational principles.<sup>23</sup> Since 2008, AANDC has made important efforts to strengthen implementation policies and procedures in an effort to be more responsive to legal developments and litigation pressures. The *Implementation Change Agenda* has been its primary response. It recognizes the important linkages between proper treaty implementation and obtaining certainty for land and resource use and development, as well as advancing the health and socio-economic circumstances of treaty beneficiaries.<sup>24</sup> It attempts to ensure a whole of government approach.

These efforts are generally responsive to the courts' directions, however, there is a continuing need to implement this agenda across government and to continue to identify outstanding issues. The extent to which federal government policies and practices can demonstrate responsiveness to the Courts pronouncements, the more likely those policies and practices will be able to manage legal risk in this area and limit future unfavourable developments in jurisprudence.

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<sup>20</sup> The evolving jurisprudence has raised new challenges related to the extent of the Crown's obligations in treaties negotiated to date, particularly regarding the use of "objective standards" and whether or to what extent they are treaty rights within the meaning of s.35, giving rise to corresponding Crown obligations or independent duties based on the honour of the Crown.

<sup>21</sup> See, e.g., *Haida, Beckman v. Little Salmon/Carmacks First Nation*, [2010] 3 SCR 103 (hereinafter "*Little Salmon/Carmacks*"), and *Mikisew Cree*.

<sup>22</sup> *Little Salmon/Carmacks* at para 12.

<sup>23</sup> Reconciliation, honour of the Crown, duty to consult, and diligent implementation.

<sup>24</sup> There are important linkages between land and resource certainty and implementation issues particularly as they pertain to the adequate Fiscal Financial Arrangement to support effective governance and land use and management by the treaty groups.

## 4.2 Economic Impact

The economic literature examined as part of the evaluation identified a number of mechanisms through which modern treaties could affect economic development. To begin, the formalization of property rights helps individuals and collectives derive full benefits from the ownership of resources. In addition, this formalization allows for the maximization of gains from trade and supports other transactions in the economy. Although informal property rights could support similar mechanisms, there is a clear advantage to the formal property structure established under a modern treaty.

In addition to establishing stable property rights, the agreements provide for direct capital transfers to beneficiary organizations. These have the potential to support investment activity as well as social and educational initiatives with possible long-term economic benefits. Much of the transfer funding is provided to corporate bodies, which, in and of themselves, have the potential to facilitate economic development through their actions.

All the while, governance appears to be closely linked to economic development activity as a stable and separate governance structure encourages economic activity. A variety of activities can help promote effective community governance and effective cooperative federal activity. This appears particularly important given that this cooperation appears to be well entrenched in the approach to modern treaties.

### *Governance*

A critical point coming out of discussions of economic development is that governance can play an important role in facilitating and sustaining economic growth. In their discussion of Aboriginal policy in the United States, Cornell and Kalt point to the importance of the stable governance environment in order to facilitate economic activity. As they suggest, investors from both within and outside of the community have an interest in seeing a stable political environment where government and economic activities remain separate,<sup>25</sup> as well as an environment that sees political rent seeking - or redistributing economic benefits without engaging in productive activities — kept to a minimum.<sup>26</sup>

Other authors have also noted that the legal framework for financial management at the community level is important. Raybould notes that this may help avoid financial mismanagement and the loss of assets. This, he notes, is a particularly undesirable result given the efforts needed to unlock the value of Aboriginal assets such as land through mechanisms like modern treaties.<sup>27</sup>

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<sup>25</sup> Cornell, S. E., & Kalt, J. P. (2006). *Two approaches to economic development on American Indian reservations: one works, the other doesn't*. Native Nations Institute, Udall Center for Studies in Public Policy, University of Arizona. p. 7.

<sup>26</sup> Prasad, B. C. (2003). Institutional economics and economic development: The theory of property rights, economic development, good governance and the environment. *International Journal of Social Economics*, 30(6), 741–762.

<sup>27</sup> Raybould, T. (2010). *The Economics of First Nations Governance: Investment Capital, Money and Wealth Accumulation*. National Centre for First Nations Governance, p. 25.

Raybould also states that politicians, both federal and First Nation, need to show strong leadership and imaginative resolve. It is the Government's responsibility to work with First Nation leaders with a clear vision of what is being attempted. This is fundamental for the achievement of economic success.<sup>28</sup> Such a coherent vision can help the economic development process. This argument is consistent with many of the others authors regarding certainty and its impacts on investment and development. For example, when a community or region establishes where to invest capital and how to support economic development activities through education, infrastructure, etc., it provides a signal about the development direction of the community or region. Knowing this direction is important to investors who may be planning for long-term business ventures in these areas. It also ensures that development activities are not working at cross purposes.

There is by no means consensus on the nature of good governance at the community level. However, through their research into the nation-building approach to economic development in the United States, Cornell and Kalt identify a number of important characteristics. These include the following:

- “Governing institutions have to be stable. That is, the rules don’t change frequently or easily, and when they do change, they change according to prescribed and reliable procedures.
- Governing institutions have to separate politics from day-to-day business and program management, keeping strategic decisions in the hands of elected leadership but putting day-to-day management decisions in the hands of managers.
- Governing institutions have to take the politics out of court decisions or other methods of dispute resolution, sending a clear message to tribal citizens and outsiders that their investments and their claims will be dealt with fairly.
- Governing institutions have to provide a bureaucracy that can get things done reliably and effectively.”<sup>29</sup>

At the same time, they point to the need for good governance activities on the part of non-Aboriginal governments as well. Their cooperative nation building approach emphasizes the following role for external governments:

- “A programmatic focus on institutional capacity-building, assisting Native nations with the development of governmental infrastructure that is organized for self-rule, respects indigenous political culture, and is capable of governing well.
- A shift from program funding to block grants, thereby putting decisions about priorities in Indian hands.

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<sup>28</sup> *Ibid*, p. 14.

<sup>29</sup> Cornell, S. E., & Kalt, J. P. (2006). p. 15.



- The development of program evaluation criteria that reflect the needs and concerns not only of funders but of Native nations as well.
- A shift from consultation to partnerships in which Native nations and outside governments make joint decisions where the interests of both are involved.
- Recognition that self-governing nations will make mistakes, but what does sovereignty mean if not the freedom to make mistakes and learn from them?<sup>30</sup>

With that said, it is difficult to identify precisely a relationship between governance and the possible economic development benefits of modern treaties in a general sense. As the discussion above suggests, it is not presence or absence of governance itself that seems to result in effective economic development. Rather, there are specific governance features, present in some communities and not in others, that facilitate success. Modern treaties include provisions meant to support specific elements of good governance. However, given the flexibility in their implementation, it is difficult to argue with certainty that these provisions will necessarily result in specific economic development outcomes. The causality linking governance and economic development is diffuse and complicated.

### *Economic Development*

The economic rationale for modern treaties rests on a considerable amount of development literature. Many authors have suggested how changes to regional economies can result from these agreements based on the provisions outlined therein. For example, certain authors have argued that modern treaties provide a means of formalizing property rights and, by extension, affect the economy. However, prior to discussing the effects of modern treaties on the economy, it is important to note that a diversity of opinions regarding the appropriateness of Aboriginal economic development approaches exists. Two major views pit neoliberal policy approaches against more traditional and collectivist approaches to development.

As Taylor and Friedel note, neoliberal policy places a development focus clearly on the individual. Under this perspective, exclusion from the formal economy is tied closely to a lack of human capital. Individuals fail to participate in the economy because of a lack of necessary skills or available opportunities, and little focus is placed on the historical context in which this exclusion developed.<sup>31</sup> Under the approach, the integration of individuals into the paid economy remains the principal focus.

Taylor and Friedel note that this approach may have inherent difficulties in an Aboriginal context. In particular, the individualistic nature of the neoliberal development approach may run contrary to established cultural beliefs. For example, communal ownership does not feature prominently in the neoliberal perspective. As the authors note, this makes it difficult to maintain the legitimacy of this cultural perspective while pursuing development goals.<sup>32</sup>

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<sup>30</sup> *Ibid.* p. 18.

<sup>31</sup> Taylor, A., & Friedel, T. (2011). Enduring neoliberalism in Alberta's oil sands: the troubling effects of private-public partnerships for First Nation and Métis communities. *Citizenship Studies*, 15(6-7), p. 820.

<sup>32</sup> *Ibid.*, p. 822.

Taylor and Friedel go on to note that this conflict has important implications for development policy. Although potentially successful in achieving the goal of economic integration, certain policies may serve to undermine social and cultural structures in Aboriginal communities where beliefs do not align with the characteristics of a neoliberal development approach.<sup>33</sup> With this in mind, other authors such as Raybould suggest that establishing a vision for how development should proceed forms an important part of the community's overall approach — and requires considerable thought and discussion.<sup>34</sup>

### ***Property Rights Mechanisms***

Many cite the formalization of property rights as the main mechanism through which modern treaties are expected to affect the economy. Prior to discussing these impacts, however, it is important to understand what one means by property rights in an economic context. Prasad<sup>35</sup> draws on two definitions of property rights in order to highlight important features of the concept. In one case, the author presents a concrete definition based on the work of Furubotn and Pejovich suggesting that property rights involve sanctioned behavioural relations regarding the use of a good.<sup>36</sup> Effectively, rights allow individuals to use a good in the way that they see fit. In the second case, drawing on the inherent utility associated with goods, Prasad discusses the definition posited by Bromley<sup>37</sup> where property rights are defined as a claim to a protected stream of benefits.<sup>38</sup>

As early as the 1960s, Coase discussed how the assignment of property rights can affect economic efficiency.<sup>39</sup> From the work of Prasad, it is possible to see how well-defined property rights can result in an efficient allocation of resources in a competitive economy.<sup>40</sup> In fact, neoclassical economic theory often assumes rather than empirically verifies that such well-defined property rights exist, positing four key characteristics from the work of Tietenberg<sup>41</sup>:

- *Universality* – This suggests that all resources are privately owned and ownership is completely specified.
- *Exclusivity* – This means that all benefits accrue to the individual owning the resource and only this individual.
- *Transferability* – This characteristic states that ownership may be transferred voluntarily from one individual to another.

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<sup>33</sup> *Ibid*, p. 822.

<sup>34</sup> Raybould, T. (2010). *The Economics of First Nations Governance: Investment Capital, Money and Wealth Accumulation*. National Centre for First Nations Governance. p.7.

<sup>35</sup> Prasad, B. C. (2003). Institutional economics and economic development: The theory of property rights, economic development, good governance and the environment. *International Journal of Social Economics*, 30(6), 741–762.

<sup>36</sup> Furubotn, E. G., & Pejovich, S. (1974). *The economics of property rights*. Ballinger Cambridge, MA.

<sup>37</sup> Bromley, D. W. (1991). *Environment and economy: Property rights and public policy*. Basil Blackwell Ltd.

<sup>38</sup> Prasad, (2003), p. 747.

<sup>39</sup> Coase, R. H. (1960). The Problem of Social Cost. *Jl & econ.*, 3, 1.

<sup>40</sup> Prasad, (2003), p. 747.

<sup>41</sup> Tietenberg, T. H. (1992). *Environmental and natural resource economics*. HarperCollins Publishers New York.

- *Enforceability* – This characteristic suggests that property may not be involuntarily seized or encroached on by others.

In many instances, these ideal characteristics do not reflect economic reality. Besley and Ghatak,<sup>42</sup> for example, identify a number of situations where one or more of the characteristics above fail to hold. They note that in the case of communal property, individuals have use rights but may not exclude others from use. In other circumstances, such as with the prohibition of slavery, they suggest that the establishment and transfer of property rights may be completely circumscribed. More commonly, only certain uses of property are regularly prohibited — for example, the use of land for illegal endeavours.<sup>43</sup>

As the authors note, the failure of these four characteristics to hold in all circumstances points to the importance of understanding the specific features of property rights in a given setting. The differences may drive variation in ownership structures, wealth distribution, and consumption. More importantly, perhaps, they may also affect production and the evolution of the economy over time.<sup>44</sup>

In their work, Besley and Ghatak attempt to itemize separate mechanisms through which variations in property rights may affect economic activity. They identify four such mechanisms as critically important:

- *Deriving full benefits from ownership* – In this case, insecure property rights may result in the loss of benefits that individuals normally derive from ownership. For example, an individual may lose some or all of their ownership benefits if the property is expropriated.
- *Incurring costs of property protection* – Simply put, insecure property rights results in the need for protection of ownership claims. These costs directly reduce the potential benefits that may be derived from ownership.
- *Deriving gains from trade* – In this instance, the inability to transfer property rights means that certain resources may not be put to their most productive use. This results in inefficiencies in the economy as resources are used in inefficient ways.
- *Using property to support other transactions* – In this final case, secure property rights allow individuals to use resources as collateral during other market transactions. A clear example involves mortgaging property in order to support investment activity.<sup>45</sup>

All of these mechanisms appear to be very important in the context of modern treaties. To begin, deriving full benefits from ownership is important from two different perspectives. From the Aboriginal perspective, expropriation is a — if not the — principal concern motivating modern treaties. Modern treaties represent a formal reaffirmation of ownership rights that signatory groups have consistently identified as their own. This formal reaffirmation therefore limits the

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<sup>42</sup> Besley, T., & Ghatak, M. (2009). Property rights and economic development.

<sup>43</sup> *Ibid.* p. 4.

<sup>44</sup> *Ibid.*

<sup>45</sup> *Ibid.* p. 56.

ability of government, private organizations, and individuals to expropriate this land and allows beneficiaries to derive full benefits from its use.

From the perspective of non-Aboriginal investors and businesses, direct expropriation of property may not be of principal concern. However, the potential cost of ownership disputes certainly is. Unlike expropriation, which eliminates the benefits one may derive from ownership entirely, disputes and their resolution simply erode economic gains. This is because they represent an additional cost during production. The point is highlighted by Woodruff, where he discusses how formal ownership structures may lower the costs of economic activities. He states that formal ownership eliminates the need to negotiate access to land and other resources on a variable and case-by-case basis.<sup>46</sup>

However, even in contexts where formal property rights exist, disputes may arise about the particulars of ownership. This may involve, for example, extent of land use implied by these rights. Resolving these disputes when they do occur can be costly and as a result impact negatively on economic development. The resolution process outlined in modern treaties provides a formal means of resolving these disputes, thereby reducing these resolution costs.

Modern treaties also have a link to the costs of property protection. Again, from the perspective of Aboriginal groups, who historically did not transfer land ownership or use rights, the use of traditional lands by non-Aboriginal groups without consultation or compensation represents expropriation. Attempts by Aboriginal groups to participate in decision making and derive benefits in these situations represent the direct protection of traditionally-acknowledged property rights. However, these attempts come at a direct cost to participating groups. By formalizing ownership rights, modern treaties eliminate the ongoing need for these protective activities.

The stability afforded by these formal ownership structures is also important in many of the regions covered by modern treaties. Often, economic activity is dominated by primary resource extraction and related activities. Many of these endeavours involve long-term planning and significant investments. The decision to invest in such activities rests in part on having a clear sense of the benefits that one may derive, and the risk of unforeseen losses. The stability of ownership and use rights afforded by modern treaties can allow firms to make accurate projections of their potential returns on investment.

When it comes to deriving benefit from trade, it may appear that the provisions of many modern treaties limit this potential by circumscribing the sale of Aboriginal land. This would seem to imply that the potential benefits gained from trade in these lands would be lost. However, from the discussion above, it is possible to see that the transfer of property rights need not include only sale. The transfer of use rights may involve the establishment of leases or rental agreements in order to allow non-Aboriginal groups to use property identified in the agreements. This, in turn, would allow for the efficient use of resources even when these uses are not undertaken by signatory organizations themselves. Without a clear ownership structure, this type of transfer would be impossible.

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<sup>46</sup> Woodruff, C. (2001). Review of de Soto's *The Mystery of Capital*. *Journal of Economic Literature*, 39(4), [1215–1223], p. 1217.

The effects of formal ownership on the ability to use property to support other transactions have been well documented in economic literature. For example, in his discussion of *The Mystery of Capital*, Woodruff outlines one of de Soto's main arguments regarding the relationship between formal property ownership and economic development. He suggests that in situations where property ownership remains informal, individuals cannot leverage property for investment purposes. Effectively, he argues that the value of property cannot be used by much of the population to start a business or other enterprise, thereby limiting economic development.<sup>47</sup>

Although de Soto's argument holds intuitive appeal, its applicability in the case of modern treaties may be limited. This is particularly true given that the agreements provide for collective title as opposed to individual ownership. While formalizing collective title may allow for access to capital among corporations, it would not necessarily provide for individual leveraging and investment.

### ***Informal Verses Formal Rights***

Modern treaties outline formal ownership and use rights on the part of signatory organizations, including the Government of Canada. These rights fit within the broader Canadian legal system. With that said, it is important to understand that property rights can exist outside of the formal legal structure. As Clarke notes, other, less formal mechanisms may exist to maintain these rights.<sup>48</sup> These may involve informal social sanctions levied against those who infringe on collectively understood rights.

In addition, it is also important to understand that even in the absence of stable and well-defined property rights, investments and economic activity may still take place. In situations where potential returns are sufficiently high, the risk resulting from ownership instability may not dissuade entrepreneurs or firms from investing and pursuing economic endeavours. Clarke, for one, points to examples from the reform era in China, where restrictions on economic activity were relaxed, and, despite not having a well-developed formal legal structure to support individual property rights, entrepreneurial activity flourished due to high levels of profit driven by excess demand.<sup>49</sup>

As he also points out, however, comparisons of formal and informal property right structures rest not on whether economic development may take place under either. Rather, they rest on the key question of whether formal property rights provide for more growth than informal agreements.<sup>50</sup> In addition, it is also important to understand under which circumstances formal property rights may provide the most benefit.

As Clarke notes, the economic literature suggests that informal property right structures, which rest on social sanctions and repeated interactions among economic agents, perform poorly in one particular circumstance. This is when individuals or groups, who are unknown to each other, interact once with no intention of pursuing a future economic relationship. This is because there

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<sup>47</sup> *Ibid.* p. 1215.

<sup>48</sup> Clarke, D. C. (2003). Economic development and the rights hypothesis: The China problem. *Am. J. Comp. L.*, 51, 89. pp. 91-92.

<sup>49</sup> *Ibid.* p. 92.

<sup>50</sup> *Ibid.*

is no opportunity to impose sanctions during a subsequent interaction.<sup>51</sup> In this type of situation, formal property rights enforced by a third party — such as through a legal structure — provide a clear advantage over more informal structures.

### *Direct capital transfer*

Direct financial transfers form an important part of modern treaties. This is because access to capital is at times limited in regions covered by the agreements. In this context, transfers become a critical part of the Aboriginal signatory group's economic development approaches. This is true of both general funds provided through the agreement, which may be redirected for investment in the region, as well as funds earmarked for specific activities.

As Saku<sup>52</sup> notes, the funds provided through modern treaties have been used to pursue a number of investment activities. Citing the Inuvialuit Final Agreement specifically, he points to investments made by the Inuvialuit using these funds both regionally and throughout Canada. They include:

- business purchases;
- investments in oil companies; and
- real estate purchases.

The returns from these investments may then be used regionally to further economic development goals.<sup>53</sup>

Additional provisions within the agreements can also help ensure that the gains from economic development are distributed equitably. For example, the Inuvialuit Final Agreement suggests a number of economic measures to support this end. These include, among others, commitments on the part of the federal government to:

- address institutional prejudices against the Inuvialuit;
- facilitate access to government assistance for the Inuvialuit; and
- take action to support economic opportunities, including employment among the Inuvialuit.<sup>54</sup>

These provisions, and others like them, attempt to direct the gains from economic development to Aboriginal beneficiaries and other local parties. Saku suggests that reducing the amount of leakages in the local economy can play an important role in regional growth.<sup>55</sup> This is because reducing the amount of economic returns that leave the regional economy (these so called “leakages”) means that profits and wages are re-circulated within the regional economy rather than being exported south.

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<sup>51</sup> *Ibid.* p. 94.

<sup>52</sup> Saku, J. C. (2002). Modern Land Claim Agreements and Northern Canadian Aboriginal Communities. *World Development*, 30(1), [141–151].

<sup>53</sup> *Ibid.* p. 146.

<sup>54</sup> Committee for Original Peoples' Entitlement, & Government of Canada. (1984). The Western Arctic Claim - Inuvialuit Final Agreement. Inuvialuit Regional Corporation. p. 67.

<sup>55</sup> Saku, (2002). p. 145.

This re-circulation forms an important part of regional economic development by also supporting diversification. To the extent that residents spend on regional goods and services, other local markets can develop. The associated job creation and employment may then have a considerable multiplier effect.<sup>56</sup> As Randall and Ironside note, heterogeneity in resource dependent regions such as those covered by modern treaties can have a strong influence on economic performance.<sup>57</sup>

Equity in the distribution of the benefits from economic growth, even among beneficiaries, also requires mention. The social development provisions in many of the modern treaties support this equitable distribution by providing support to those individuals facing barriers to participation in the formal economy. Overcoming these barriers is essential to the goal of equal participation in the economy by signatory groups and their individual beneficiaries.

The social development provisions in the agreements may also have a direct impact on economic development, beyond the distributional effects noted above. Social development activities also support local and regional social cohesion. As Terluin notes, improvements in both human capital and cooperative behaviour can have important development effects.<sup>58</sup>

That said, the effectiveness of these provisions rests on the ability of the signatory groups to implement them effectively. For example, despite the provisions included in the Inuvialuit Final Agreement, representatives from the Inuvialuit Regional Corporation argue that the funding provided under the agreement for social development is insufficient. That is, they suggest that additional funding is required to effectively meet the social development goals under the modern treaties.

### ***Corporate institutional development***

As Besley and Ghatak note in their discussion of the North, the economic literature pays particular attention to institutions when discussing development. In a very general sense, the authors suggest that institutions incorporate all of the economic “rules of the game” that constrain and facilitate interaction. Under this definition, property rights would qualify as one important institutional structure in the regional economy.<sup>59</sup>

However, modern treaties have also established other institutions in regions throughout the country. For example, the Inuvialuit Final Agreement establishes an elaborate corporate structure to govern much of the economic development activity in the Inuvialuit Settlement Region. These corporations play an important role in both the success and nature of economic development in the regions governed by these agreements.

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<sup>56</sup> *Ibid.* p. 146.

<sup>57</sup> Randall, J. E., & Ironside, R. G. (1996). Communities on the Edge: An Economic Geography of Resource-Dependent Communities in Canada. *Canadian Geographer / Le Géographe canadien*, 40(1), [17–35]. p. 32.

<sup>58</sup> Terluin, I. J. (2003). Differences in economic development in rural regions of advanced countries: an overview and critical analysis of theories. *Journal of Rural Studies*, 19(3), [327–344]. p. 342.

<sup>59</sup> Besley, T., & Ghatak, M. (2009). p. 3.

When discussing the neoliberal perspective on economic development, Taylor and Friedel make an important point. While citing the work of Slowey,<sup>60</sup> they suggest that individuals and groups who have leverage in the marketplace derive the most benefit.<sup>61</sup> In the context of modern treaties, this point highlights the important role of the corporations and other Aboriginal groups formed as a result of the agreements. In many cases, they provide opportunity for signatory organizations and individual beneficiaries to derive benefits from economic development that would otherwise not be possible.

In addition, as major economic actors in those regions covered by agreements, corporations operated by signatory organizations can help ensure that development activities align with community needs. As Taylor and Friedel note, external firms in non-Aboriginal governments may have economic interests that do not necessarily align with those of signatory groups.<sup>62</sup> This can make Aboriginal corporations, which pursue investments and other regional economic activities, important tools for achieving a community's development goals.

The importance of these organizations discussed above aligns with a point raised by Saku in his work *Modern Land Claim Agreements and Northern Canadian Aboriginal Communities*. He notes that the agreements typically emphasize more than general economic development. They also include provisions for local control. He argues that this is true both in terms of human capital and natural resources.<sup>63</sup> From this perspective, the accrual of benefits to beneficiaries of the agreements, and not just operating in the region, is important.

The nature of modern treaties suggests a number of ways in which beneficiaries, specifically, can gain economically from the agreements. Not the least of these involves payments through the aforementioned corporations and trusts. Assuming the profitability of these entities, this provides an ongoing revenue stream for Aboriginal beneficiaries. This represents an additional source of income beyond wages and non-market subsistence activity.

The fact that corporate ownership is distributed across all beneficiaries, may also play an important role in economic development. As Morok, Wolfenzon, and Yeung<sup>64</sup> note, corporate ownership structures can have an important impact on the economy. Their research suggests that increasing concentration of ownership may be associated with significant market distortions. They argue, while citing prior work, that more equitable distributions have the potential to improve total output.<sup>65</sup> Given that the corporate ownership established under the Inuvialuit Final Agreement is equal across all beneficiaries, total output may similarly benefit.

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<sup>60</sup> Slowey, G. A. (2008). *Navigating neoliberalism: self-determination and the Mikisew Cree First Nation*. University of British Columbia Press

<sup>61</sup> Taylor, A., & Friedel, T. (2011). p. 821.

<sup>62</sup> *Ibid.*

<sup>63</sup> Saku, (2002). p. 145.

<sup>64</sup> Morck, R., Wolfenzon, D., & Yeung, B. (2005). Corporate Governance, Economic Entrenchment, and Growth. *Journal of Economic Literature*, 43(3), 655–720.

<sup>65</sup> *Ibid.* pp. 655–656.



Beyond this, it may also be the case that modern treaties reduce barriers to business development. As Carree, van Stel, Thurik, and Wennekers note, low barriers to business entry and exit into the market are important for economic development.<sup>66</sup> The combination of the corporate structures and significant settlement payments resulting from the agreements may allow for business development on the part of Aboriginal beneficiaries in a way that would not have been possible otherwise. This is particularly true for entry into markets that require significant capital investment and specialized skills such as in the resource sector.

### ***Taxation Powers and Development***

The ability of Aboriginal signatory groups to levy taxes on residents in lieu of federal, provincial, and municipal governments can have important economic impacts on the regions covered by modern treaties. However, the effects of taxation on economic development are varied and complicated. In the context of the current discussion, there is only scope for a brief overview of these effects.

Economists have studied taxes extensively. In particular, much research effort has been directed towards studying “distortionary” or the “efficiency cost” effects of taxation.<sup>67</sup> These distortionary effects result from the fact that taxes change consumer and producer incentives, thus altering the behaviour of individuals and businesses in many ways. For example, taxes may change the relative price of certain goods and services, thus making them more or less attractive to consumers. Taxes also affect producer decisions about how, when, and where to produce certain goods and services.<sup>68</sup> These changes in prices resulting from taxes lead to a “deadweight loss.” A deadweight loss is a situation where either:<sup>69</sup>

- individuals that would benefit from buying a particular product are not buying the product; or
- individuals that do not benefit from buying a particular product are buying the product.

A deadweight loss represents a loss of economic efficiency, because potential benefits to consumers and producers are lost. Some United States studies suggest that deadweight loss may be approximately 20 to 30 cents per dollar raised in taxation.<sup>70</sup>

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<sup>66</sup> Carree, M., Stel, A. van, Thurik, R., & Wennekers, S. (2002). Economic Development and Business Ownership: An Analysis Using Data of 23 OECD Countries in the Period 1976–1996. *Small Business Economics*, 19(3), [271–290]. p. 271.

<sup>67</sup> Smith, S. (n.d.). Introduction to key concepts in the economics of taxation.

<sup>68</sup> Palacios, M., & Harischandra, K. (n.d.). The Impact of Taxes on Economic Behavior.

<sup>69</sup> Boundless. (n.d.). Explaining Deadweight Loss Using A Trade Example - Loss of Economic Efficiency Due to Taxation.

<sup>70</sup> Smith (n.d.).

Palacios and Harischandra provide a large literature review of empirical studies on the distortionary effects of taxation. The authors outline four main examples of the negative effects taxation can have on economic development:

- High marginal tax rates can reduce economic growth.
- Taxes can affect the labour supply by changing the after-tax wages to employment, and thus negatively influence the number of hours workers are willing to work.
- Business taxes can reduce the after-tax return on investment, and thus reduce the amount of money firms reinvest in machinery, equipment, and technology.
- Taxes can also deter entrepreneurship and risk-taking, which is critical for an economy's growth-enhancing activities such as job creation, innovation, and productivity.

Although taxation can have a variety of distortionary effects, they are used to finance government spending that may have large social value and could not be provided privately. As a result, the costs of taxation must be weighed against the benefits that result from increased government spending of the revenue raised by the tax.

This makes assessing the effects of the transfer of taxing powers under modern treaties particularly difficult to analyze. Even tax exemptions under certain modern treaties may have a variety of competitive effects. This places its analysis outside of the scope of the current analysis.

### ***Impact and Benefit Agreements and Contracting***

Modern treaties have radically changed the nature of relations between Aboriginal people and developers and have helped improve Aboriginal-industry relations.<sup>71</sup> As an example, 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.

In addition, some modern treaties include measures dealing with procurement aimed at increasing the opportunities of the Aboriginal signatory group to compete successfully for contracts in their settlement areas. The procurement obligations of a modern treaty apply to the portion of the procurement that involves deliveries of goods and/or services to the settlement area of that modern treaty.

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<sup>71</sup> AANDC (2009), Impact Evaluation of Comprehensive Land Claim Agreements.

## 4.3 Social Impact

### *Demographic*

According to the 2006 Census, there are 64,670 persons with Aboriginal identity living in Census sub-divisions affiliated with at least one modern treaty.

Canada's Aboriginal population is experiencing a baby boom. This is particularly evident in Aboriginal signatory groups who have a higher birth rate than both the non-Aboriginal population and the Aboriginal identity population at large. Thirty-six percent of the Aboriginal signatory group population is less than 15 years old and four percent is over 64 years old. This compares to 17 percent of the non-Aboriginal population and 30 percent of the Aboriginal identity population that is less than 15 years old; and 13 percent of the non-Aboriginal population and five percent of the total Aboriginal identity populations that are over 64 years old.

As for family structure, 31 percent of Aboriginal families in modern treaties are lone parent families compared with 24 percent of the total Aboriginal identity population and 15 percent of non-Aboriginal families. Lone parent families are particularly predominant in the Nunavik Inuit Land Claims Agreement and the Gwich'in Agreement at 40 percent and 36 percent respectively.

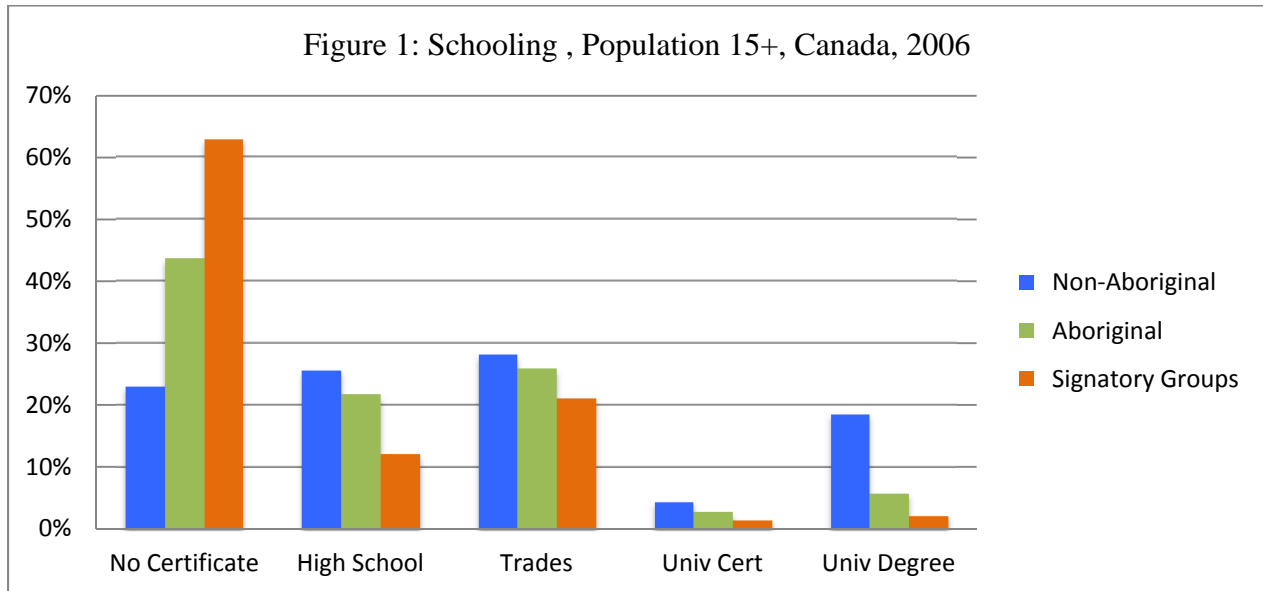
### *Education*

Overall, the Aboriginal population, both male and female, living in areas with modern treaties in 2006 have lower levels of education attainment than either the total Aboriginal identity population or the total non-Aboriginal population. Of Aboriginal persons living in areas with modern treaties, 60 percent have not completed high school compared with 23 percent for non-Aboriginal population and 44 percent of Aboriginal identity population.<sup>72</sup>

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<sup>72</sup> Due to data limitations, this analysis is restricted to the population 15+.

Figure 1 shows the distribution of the level of schooling for non-Aboriginal, Aboriginal identity, and Aboriginal signatory group populations.



Source: Statistics Canada, 2006 Census of Population. AANDC Tabulations

Looking at differences by province and territory, it is apparent that there are clear regional variations. Schooling levels are higher for Aboriginal signatory groups in British Columbia and the Yukon and substantially lower in Northwest Territory and in Nunavut.

The agreements with the highest levels of schooling are:

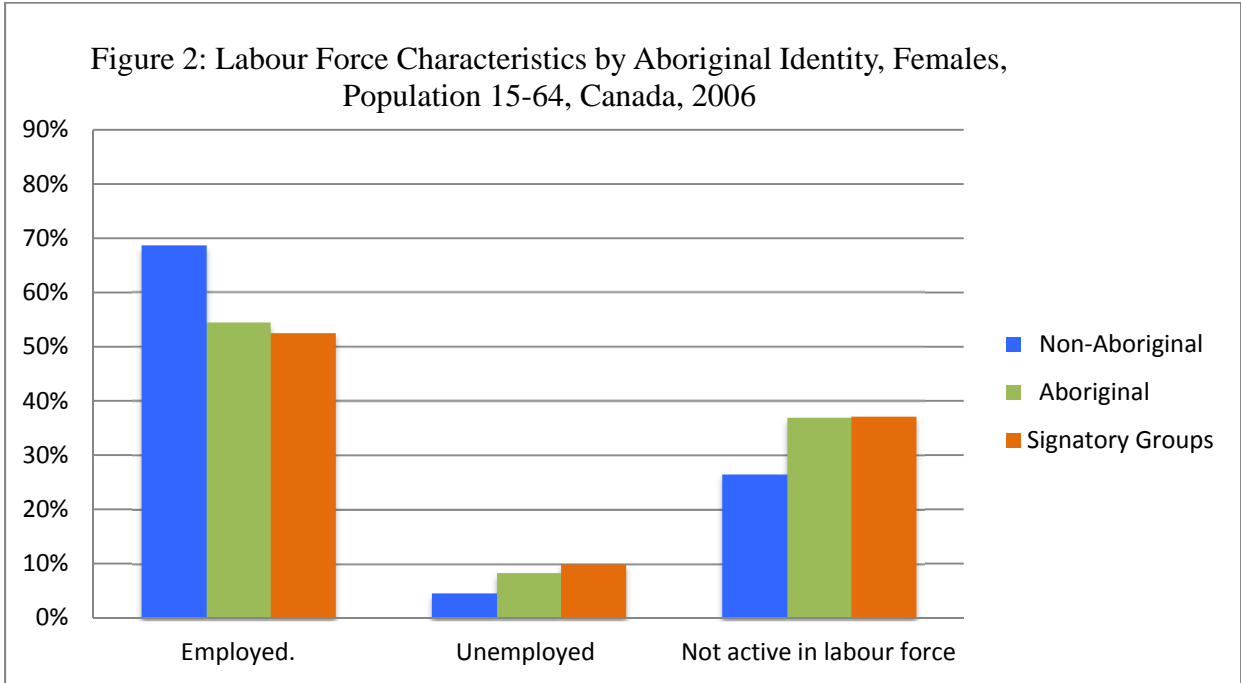
- Nisga'a Final Agreement (British Columbia)
- Tsawwassen First Nation Final Agreement (British Columbia)
- Champagne and Aishihik First Nations (Yukon)
- Carcross/Tagish First Nations (Yukon)
- Little Salmon/Carmacks First Nations (Yukon)

The agreements with the lowest levels of schooling are:

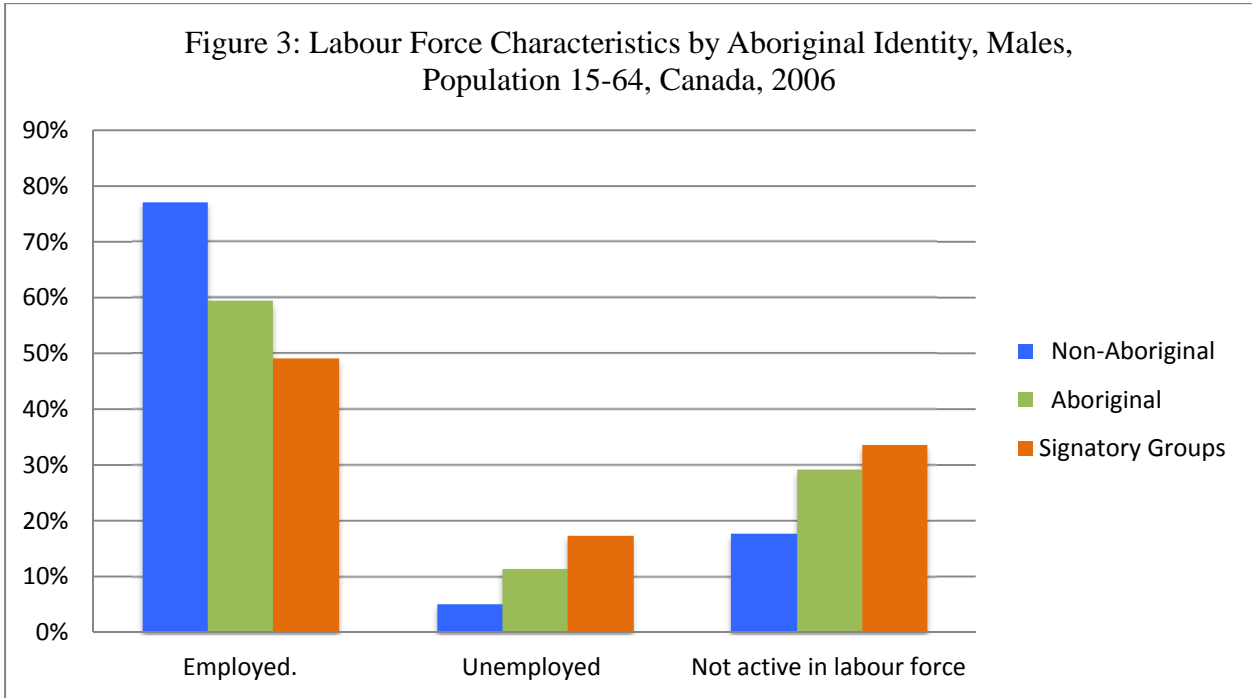
- Nunavut Land Claims Agreement (Nunavut)
- Nunavik Inuit Land Claims Agreement (Quebec)
- Tlicho (Dogrib Treaty 11) (Northwest Territories)
- Sahtu Dene and Métis Agreement (Northwest Territories)
- Northeastern Quebec Agreement (Quebec)

### ***Labour Force Characteristics***

The labour force is generally divided into two broad categories – those that are active and those that are not active in the labour force. Those deemed active are either employed or unemployed but actively looking for work. As shown in Figure 2 and Figure 3, compared to both the total Aboriginal identity population and non-Aboriginal population, a significantly larger portion of individuals who are part of a modern treaty are either not active in the labour force or unemployed.



Source: Statistics Canada, 2006 Census of Population. AANDC Tabulations



Source: Statistics Canada, 2006 Census of Population. AANDC Tabulations

Agreements associated with higher labour force activity are:

- Champagne and Aishihik First Nations (Yukon)
- Selkirk First Nation (Yukon)
- Vuntut Gwitchin First Nation (Yukon)
- Sahtu Dene & Métis Agreement (Northwest Territories)
- James Bay and Northern Quebec Agreement (Quebec)

Agreements associated with lower levels of labour force activity are:

- Labrador Inuit Agreement (Newfoundland and Labrador)
- Northeastern Quebec Agreement (Quebec)
- Tlicho (Dogrib Treaty 11) (Northwest Territories)
- Nisga'a Final Agreement (British Columbia)
- Nunavut Land Claims Agreement (Nunavut)

### ***Individual and Family Income***

The median 2005 income for non-Aboriginal families was \$64,648 while the median income for Aboriginal identity families was \$46,013 (or about 71 percent of the median non-Aboriginal family income). The median income for Aboriginal families living in areas with modern treaties was almost the same as the Aboriginal identity families at \$46,366.

Aboriginal families living in areas affiliated with the Gwich'in Agreement and Champagne and Aishihik First Nations have the highest median incomes (\$57,000 and \$58,000 respectively) and the lowest gap (just short of 90 percent of the earnings of Canada wide non-Aboriginal families). Aboriginal families in the Carcross/Tagish First Nations Agreement have the lowest median family incomes (\$31,000) followed by the Nisga'a Final Agreement (\$33,000).

Closest to Canada-wide median income for non-Aboriginal families<sup>73</sup>:

- Champagne and Aishihik First Nations (Yukon)
- Gwichin Agreement (Northwest Territories)
- Inuvialuit Final Agreement (Northwest Territories)
- Vuntut Gwitchin First Nation (Yukon)
- James Bay and Northern and Northern Quebec Agreement (Quebec)
- Nunavik Inuit Land Claims Agreement (Quebec)

Furthest from Canada-wide median income for non-Aboriginal families:

- Carcross / Tagish First Nations (Yukon)
- Nisga'a Final Agreement (British Columbia)
- Northeastern Quebec Agreement (Quebec)
- Nunavut Land Claims Agreement (Nunavut)
- Tsawwassen First Nations Final Agreement (British Columbia)

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<sup>73</sup> Cost of living was not factored into this analysis.

From an individual perspective, females generally receive almost twice as much of their income from transfers than their male peers. Across all groups, males receive more of their income from employment than do females. Individuals living in areas with modern treaties tend to receive somewhat less income from ‘other sources’ than the total Aboriginal identity population. However, both Aboriginal populations receive far less of their income from ‘other sources’ than the non-Aboriginal population. This is at least partially because the non-Aboriginal population is more likely to draw income from other sources, such as investments (e.g., RRSPs, retirement income, stocks, etc.) as shown in *Table 3*.

Table 3: Percentage of 2005 Income by Source

|                                |        | <b>% Income from Employment</b> | <b>% Income from Transfers</b> | <b>% Other Sources</b> |
|--------------------------------|--------|---------------------------------|--------------------------------|------------------------|
| Non-Aboriginal Population      | Male   | 79.6                            | 7.8                            | 12.6                   |
|                                | Female | 71.0                            | 15.7                           | 13.3                   |
| Aboriginal Identity Population | Male   | 82.4                            | 12.5                           | 5.1                    |
|                                | Female | 70.3                            | 24.8                           | 4.9                    |
| Signatory Groups Population    | Male   | 84.7                            | 13.4                           | 1.9                    |
|                                | Female | 73.5                            | 24.7                           | 1.8                    |

Source: Statistics Canada, 2006 Census of Population. AANDC Tabulations

### ***Language Retention***

Of the Aboriginal identity population, 19 percent report an Aboriginal mother tongue. However, 74 percent of Aboriginal persons living in areas with modern treaties report an Aboriginal mother tongue. This is a dramatic difference, basically driven by higher Aboriginal mother tongue retention rates in Quebec (96 percent) and Nunavut (82 percent). Retention rates are lowest in Yukon (17 percent), Newfoundland and Labrador (10 percent), and British Columbia (seven percent).

## **4.4 Gender Impact**

The results of the gender analysis reveal an awareness of gender equality as an important issue that underlies aspects of modern treaties. There is, however, a lack of a gender-based analysis being consistently incorporated across subjects being negotiated, such as land and resource management or economic development more broadly. An apparent lack of common statistical data collected across all settlement regions presents challenges to drawing conclusions from a national perspective about the gender impacts of modern treaties.

A review of the agreement provisions for four agreements, however, suggests that longstanding gender equality concerns are being addressed. For example, ensuring the application of formal equality rights standards for decision making, and ensuring certain select topics such as matrimonial real property are included in agreements through a range of statutory vehicles from constitutional guarantees to federal, provincial and Aboriginal laws. Each of the four agreements examined in detail has provisions respecting beneficiary entitlement that appear intended to be gender neutral in their impact and provisions to ensure access by women and men to formal legal equality rights through the combined application of the *Charter of Rights and Freedoms* and s. 35(4) along with federal, provincial and Aboriginal human rights laws in the respective governments' areas of jurisdiction. The precise scope of the respective application of federal, provincial and Aboriginal human rights law can vary depending on various factors, including the scope and exercise of Aboriginal jurisdiction and the way each agreement addresses relationship of law issues.

A review of the literature suggests that the primary obstacles to equal enjoyment of rights and benefits by Aboriginal women and girls compared to Aboriginal men and boys are most often seen as rooted in the experience of colonialism, and the denial of collective rights, such as the inherent right to self-government or the right to self-determination, rather than arising from traditional values of Aboriginal societies. As a consequence, restoration of Aboriginal women to a place of honour and respect within their communities is commonly seen as an integral part of any measure aimed at restoring collective self-government or decision-making powers. S.35(4) guarantees the enjoyment of "existing" Aboriginal and treaty rights equally to male and females. This guarantee, along with other constitutional and statutory based equality guarantees and protections serve both as standards for assessment and as a reminder of the ongoing need for culturally relevant gender-based analysis to assess the relative positions of Aboriginal women and men in regard to their actual access to, and enjoyment of, collective Aboriginal and treaty rights under modern treaties.

Beyond meeting minimum legal requirements for gender equality in decision making and government administration through the implementation of modern treaties, the ways in which implementation of modern treaties contemplate or are designed to ensure that males and females benefit equally from these agreements is less clear. There is a general lack of publicly available information on the extent to which Aboriginal organizations with governance roles or roles in agreement implementation utilize or apply some form of culturally relevant gender-based analysis to support their own decision making and policy analysis activities. Nevertheless, distinctive approaches to gender equality issues specifically, and the concept of equality in general, in ways intended to reflect traditional values and legal norms are evident under some agreements, such as the Nisga'a Final Agreement and laws adopted since by the Nisga'a Lisims Government.

The collection and analysis of statistics disaggregated by sex or gender in key areas of individual well-being (using culturally relevant indicators of social, economic and cultural well-being) is a standard tool of most methods of gender-based analysis. It is in this area that assessment of gender impacts in modern treaties is most challenged in terms of any national level treatment.



While modern treaties are broadly perceived as benefiting both male and female beneficiaries, the actual impact of increased Aboriginal autonomy in key areas such as rates of domestic violence experienced by Aboriginal women is not an area where national level statistics for each settlement region were available for this study. However, literature respecting the Nunavut settlement region indicated that an increased sense of control and self-determination linked to a decrease in domestic violence rates was not an immediate outcome of the agreement in the first decade of implementation of the Nunavut Final Agreement.

Under-representation of Aboriginal women as negotiators in the negotiation of modern treaties is a longstanding observation in the literature that appears to be confirmed as a continuing reality by key informant interviews. Responses in the key informant interviews appear to support views expressed in the literature that the under-representation of Aboriginal women in the negotiation of modern treaties and impact benefit agreements, as well as under-representation of Aboriginal women in co-management boards and other decision-making bodies, can impair the extent to which male and female beneficiaries have their respective needs, priorities and interests met by agreements. A key area of concern is that decision making respecting land and resource issues, including resource extraction and development decisions, is impoverished to the same extent that Aboriginal women's perspectives, knowledge and priorities are not equally included in decision making. There is some evidence of Aboriginal women's organizations and claims implementation bodies reaching out to each other to open dialogue on such issues (e.g. Pauktuutit Inuit Women of Canada and the Nunavut Impact Review Board). First Nation and Inuit women have identified the need to improve environmental assessment processes so that these processes are better able to identify important health and social impacts relating to economic development, including differential gender impacts.

The right of Aboriginal women to have equal opportunities to participate in the governance of their communities is an issue of gender equality under both s.35 and international human rights norms. Aboriginal women appear, from the literature and the analysis of the four agreements examined, to be under-represented in positions of political leadership in settlement regions. Nevertheless, there is a perception that the participation of Aboriginal women in leadership positions in Aboriginal governance or representative bodies in settlement regions is increasing overall and that Aboriginal women are as involved, and in some settlement regions more so, than Aboriginal men in senior administrative positions. Aboriginal women are also perceived as being equally and, in some cases, as more often assuming leadership roles than Aboriginal men, particularly in activities relating to culture and language revival. To the extent that different forms of leadership (political, administrative, community activism or volunteerism) are gendered, the areas of leadership assumed by Aboriginal women appear to be as equally valued as those of men even though those assumed by Aboriginal women have less visibility to persons from outside individual settlement regions.

Key informant interviews did not reveal firm trends in perceptions about how Aboriginal women and men respectively benefit from modern treaties with the exception that all interviewees felt that both Aboriginal women and men enjoyed improved business opportunities as a result of modern treaties. However, in material collected as part of the literature review, Pauktuutit Inuit Women of Canada has identified unmet needs of Inuit women in the areas of employment and business development opportunities.

## **5. Performance – Achievement of Immediate Outcomes**

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An analysis of selected agreements was undertaken to assess if the structures are in place to support the intermediate outcomes of modern treaties.

### **5.1 Governance**

*What we would expect to find:*

When self-government agreements are in place, there would be requirements to ensure that financial and political accountability and transparency are maintained at all levels. Land claim and self-governing groups, and their implementation bodies, are accountable to Parliament for funding provided by the Government of Canada through means such as the submission of an annual audit and other financial reporting requirements to Canada.

*What we found:*

There is evidence that structures are in place to support relationship and accountability requirements. These include financial accountability mechanisms (e.g., financial administration acts, annual reporting through audited financial statements) and transparency mechanisms (e.g., constitutional acts, registry of laws). In addition, there is evidence that structures are in place to support inter-jurisdictional partnerships and arrangements, which include a wide variety of land, water, environment and wildlife boards.

*Example of impact:*

Communities viewed self-government agreements positively and expressed a renewed sense of pride in their governments and the right to elect their own governments and make their own decisions affecting their lives. However, respondents also noted that there were a number of challenges associated with self-governance, highlighting capacity challenges, including inadequate federal funding and human resource challenges – and expectations arising from the agreements that led at times to disillusionment with the process.<sup>74</sup>

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<sup>74</sup> AANDC, Policy Development and Coordination Branch, 2011, Impact Assessment of Aboriginal Self-Government.

## 5.2 Programs and Services

*What we would expect to find:*

That self-government agreements support the transfer of jurisdiction over sectors such as health, social services, education or the administration of justice from the federal, provincial or territorial governments to the Aboriginal government. This includes efforts at negotiating, finalizing and implementing agreements to transfer a range of programs or services to an Aboriginal government in order that they can give practical effect to the inherent right of self-government.

*What we found:*

There is evidence that self-government agreements support the transfer of jurisdiction of program structures that allow for law making authority over program and services responsibilities. These include law making authority for social assistance, child and family services, and education. Agreements and side agreements also include structures for the funding and standards of program and services.

*Example of impact:*

Although many areas of jurisdiction have not been “drawn down” to date, the legal power to do so has engendered improved working relations with provincial/territorial departments, resulting in achievement of much of what Aboriginal signatory groups wanted to accomplish, without having to take on the full responsibility and associated costs. Education is the area noted most frequently, where an Aboriginal signatory group has been able to bring about improvements in curriculum, hiring of teachers with greater understanding of local culture, and financial support for tailored programming.<sup>75</sup>

## 5.3 Lands and Resources

*What we would expect to find:*

Modern treaties contain provisions to establish certainty and structures for the ownership, management, access and occupancy of lands and resources. Regulatory boards are established through the agreement, such as land use planning boards, land and water boards, renewable resource boards and wildlife management boards, and they are used to regulate the ways in which land and resources are managed and used by different parties.

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<sup>75</sup> 2004, BC Treaty Commission/Simon Fraser University Planning for Property Planning for Prosperity: First Nations, Intergovernmental Cooperation and Treaties.

*What we found:*

There is evidence that modern treaties include mechanisms for land and resource co-management, mechanisms for participation in environmental assessments, and, in some instances, mechanisms for registering lands in provincial / territorial land offices.

*Example of impact:*

All aspects of the regulatory regime in the Northwest Territories work much more smoothly and expeditiously in areas under a land claim agreement, as compared to areas in the Northwest Territories without an agreement. Data from the land and resource management boards also demonstrate that there are far fewer disagreements over development applications in settled areas, and that almost all lengthy environmental impact reviews take place in relation to license and permit applications in unsettled areas. The difference is attributed in part to the more localized processes and bodies that are in place as a result of the land claim agreements, and in part on the more positive working relationships that have been established in those areas as a result of co-management.<sup>76</sup>

## **5.4 Economic Development**

*What we would expect to find:*

Modern treaties contain provisions to establish structures for the promotion of economic development. These can range from specific clauses pertaining to contracting with the Aboriginal signatory group, economic development working groups and economic development funds to support employment specific training.

*What we found:*

There is evidence that modern treaties do include structures to support economic development. There is, however, less economic development wording in agreements than for the other outcomes when examining structures for procurement, education and training and other economic development structures.

*Example of Impact:*

Agreements provide structures for clear and formalized land ownership leading to well understood rights regarding management and access. Modern treaties have formalized uncertain property rights allowing for greater economic efficiency through four mechanisms: the derivation of full ownership benefits; the reduction of property protection costs; gains from trade; and the use of property to support other transactions. In addition, the formalization of

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<sup>76</sup> AANDC, 2012, Evaluation of the Northern Land, Resources and Environmental Management Programs of the Northern Affairs Organization

property rights also provides certainty of ownership and contributes to a more stable economic environment.<sup>77</sup>

*Table 4* provides a summary of the analysis of 10 modern treaties to assess if the structures are in place in the agreements and the side agreements to support the intended results of modern treaties.

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<sup>77</sup> PRA Inc, 2013 Study on the Contributions of Comprehensive Land Claim Agreements to Economic Development for Aboriginal Signatories, Working Document to Support the Evaluation of the Impacts of Comprehensive Land Claims and Self-Government Agreements

Table 4– Summary of Structures in Place in Agreements to Support Modern Treaty Outcomes

|  | Comprehensive Land Claim and Self-Government Agreements |         |        |                   |            | Comprehensive Land Claim Agreements |            |                          |         |                    |
|--|---|---------|--------|-------------------|------------|-------------------------------------|------------|--------------------------|---------|--------------------|
|  | Labrador Inuit  | Nisga'a | Tlicho | Tr'ondëk Hwëch'in | Tsawwassen | Gwich'in                            | Inuvialuit | James Bay Cree and Inuit | Nunavut | Sahtu Dene & Métis |
| <b>Governance</b>  |   |         |        |                   |            |                                     |            |                          |         |                    |
| Financial Accountability Mechanisms                                      | Y   | Y       | Y      | Y                 | Y          | N/A                                 | N/A        | Y                        | N/A     | N/A                |
| Transparency Mechanisms  | Y   | Y       | Y      | Y                 | Y          | N/A                                 | N/A        | Y                        | N/A     | N/A                |
| Mechanisms to Support Inter-jurisdictional Partnerships and Arrangements | Y   | Y       | Y      | UC                | Y          | N/A                                 | Y          | Y                        | Y       | N/A                |
| <b>Program and Services</b>  |   |         |        |                   |            |                                     |            |                          |         |                    |
| Law Making Authority   | Y   | Y       | Y      | Y                 | Y          | N/A                                 | N/A        | Y                        | N/A     | N/A                |
| Structures in Place for the Funding for Programs and Services            | UC  | Y       | Y      | Y                 | Y          | N/A                                 | Y          | Y                        | N/A     | N/A                |
| Standards for Programs and Services                                      | UC  | Y       | Y      | UC                | Y          | N/A                                 | N/A        | Y                        | N/A     | N/A                |
| <b>Lands and Resources</b>   |   |         |        |                   |            |                                     |            |                          |         |                    |
| Mechanisms for Land and Resource Co-management                           | Y   | Y       | Y      | Y                 | Y          | Y                                   | Y          | Y                        | Y       | Y                  |
| Mechanisms for Registering Lands in Provincial/Territorial Land Office   | N   | N       | Y      | N                 | Y          | UC                                  | N          | N                        | UC      | Y                  |
| Mechanisms for Participation in Environmental Assessments                | Y   | Y       | Y      | UC                | Y          | Y                                   | Y          | Y                        | Y       | Y                  |
| Provisions for Governance in Regional Districts                          | UC  | Y       | Y      | Y                 | Y          | Y                                   | Y          | Y                        | UC      | UC                 |

|                             | Comprehensive Land Claim and Self-Government Agreements |         |        |                   |            | Comprehensive Land Claim Agreements |            |                        |         |                    |
|-----------------------------|---|---------|--------|-------------------|------------|-------------------------------------|------------|------------------------|---------|--------------------|
|                             | Labrador Inuit  | Nisga'a | Tlicho | Tr'ondek Hwech'in | Tsawwassen | Gwich'in                            | Inuvialuit | James Bay Inuit & Cree | Nunavut | Sahtu Dene & Métis |
| <b>Economic Development</b> |   |         |        |                   |            |                                     |            |                        |         |                    |
| Procurement                 | Y   | N       | N      | Y                 | N          | Y                                   | Y          | Y                      | Y       | Y                  |
| Education and Training      | Y   | Y       | N      | Y                 | Y          | UC                                  | Y          | Y                      | Y       | Y                  |
| General                     | Y   | Y       | N      | N                 | Y          | Y                                   | Y          | Y                      | Y       | N                  |

Y= Yes, N= No, UC= Unclear, N/A = Not Applicable

## **6. Performance: The Achievement of Intermediate Outcomes - The Inuvialuit Final Agreement**

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The Inuvialuit Final Agreement was examined in detail to assess results at the intermediate outcome level. This was made possible through the support of the Inuvialuit Regional Corporation in conjunction with economic literature, which identified a number of mechanisms through which modern treaties could affect economic development.

This analysis has demonstrated how provisions in the Agreement have provided additional development benefits. It is very unlikely that the corporate structures, identified in the Agreement, would have been formed in the absence of the Inuvialuit Final Agreement. These corporations, including the Inuvialuit Trust, have been active in the regional economy, providing both direct and indirect benefits to signatories of the Agreement. Not the least of these is direct dividend payments to beneficiary shareholders.

Despite these gains, in the Inuvialuit Settlement Region, there does not seem to be strong evidence of a marked change in other aspects of economic development. For example, skills development and educational improvement among beneficiaries have not been marked. Yet both are important to full participation in a paid economy and as such represent an important aspect of economic development. Similarly, despite consistency in participation and employment, significant gains in either of these areas have not been realized. It is difficult to assess, however, whether this represents a failure of the modern treaties to support this type of change or if simply more time is required to observe movement in the associated measures. Moreover, the overall economy of the region needs to be taken into consideration when assessing economic development of the Inuvialuit Settlement Region.<sup>78</sup>

### **6.1 The Inuvialuit Final Agreement**

The Inuvialuit Final Agreement granted fee simple title to three separate areas of land in the northern Arctic. The first includes 4,200 square miles of surface and subsurface fee simple land divided into six sections around each of six Inuvialuit communities in the Inuvialuit Settlement Region. It further granted title to 800 square miles in Cape Bathurst. Finally, the Agreement provided for 30,000 square miles of land for the Aboriginal signatories.

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<sup>78</sup> As per the Conference Board of Canada Territorial Outlook: Autumn 2013 - the Northwest Territories will have the weakest regional economy in Canada this year with no real gross domestic product growth forecasted. However, the subpar economic conditions are expected to be short-lived. According the Board, the next five years offer better prospects for mining and the economy as new mines begin production and Ekati and Diavik remain in operation. Real gross domestic product growth is expected to rise by 1.3 percent in 2014 and 2.5 percent in 2015.



Notwithstanding, the ownership of land in the Agreement outlines certain federal and other government rights on these lands. An example involves the management of waterways in the Inuvialuit Settlement Region. As noted in the Agreement, the federal or other orders of government retained the right to manage and control waterways for the following purposes:

- the management of certain migratory species;
- the undertaking of government functions related to navigation, transportation, flood control, and other similar activities; and
- the protection of community water supplies.

Since the Agreement defined both individual Aboriginal rights and collective title, it was also required to define the beneficiaries eligible under the comprehensive land claim. As noted in the Agreement itself, the Inuvialuit were best positioned to establish whom these beneficiaries should be. The Agreement identifies a number of criteria for eligibility established at the time of the Agreement's signing, as well as provisions for the addition of beneficiaries over time as determined by the Inuvialuit through an Enrolment Committee. These eligible beneficiaries are to be identified on an Official Eligibility List.

Although the Agreement identifies individual beneficiaries, it also establishes a number of bodies responsible for overseeing the benefits and implementation of the Agreement. Taking the form of a number of corporations and a trust, these include the following:

- Inuvialuit Regional Corporation – the main body to oversee the implementation of the Inuvialuit Final Agreement;
- Inuvialuit Community Corporations;
- Inuvialuit Land Corporation;
- Inuvialuit Development Corporation;
- Inuvialuit Investment Corporation; and
- Inuvialuit Trust.

The Agreement states that identified beneficiaries to the Agreement are to gain equally from the activities of the corporations, and that these financial gains are to be distributed through the Trust. As such, each beneficiary is entitled to an equal lifetime, non-transferable interest in the Trust.

One of the key elements of the Agreement involves participation agreements. In very general terms, developers or other commercial entities requiring access to the lands covered under the Agreement must enter into participation agreements with the Inuvialuit Land Administration. The agreements stipulate the conditions of land use under which these entities are provided access to land. As noted in the Inuvialuit Final Agreement, conditions may include, but are not limited to, the following:

- the provision of funds for the inspection of work sites;
- compensation for wildlife restoration and other mitigation activities;
- employment, service, and supply contract requirements;
- education and training requirements for local workers; and

- equity provisions for beneficiaries.

The Agreement further stipulates that development activities additionally require an environmental impact screening and, if referred, an environmental review prior to proceeding.

Further to the conditions noted above, the Agreement also includes provisions for Inuvialuit harvesting rights. These rights provide for the preferential and exclusive harvesting of fur bearers, game, and fish. In addition to specific details about these rights, the Agreement suggests when they may be transferred or when harvested goods may be exchanged. Along with these harvesting rights come processes for wildlife and environmental management.

An important element of the Agreement involves direct compensation to the Aboriginal signatories. The Agreement comes with the provision of \$45 million in compensation from the federal government to the Inuvialuit Regional Corporation. It also notes that the Corporation is free to borrow from the federal government at a fixed interest rate.<sup>79</sup> The Agreement also lays out a number of economic measures to be undertaken by the federal government in order to facilitate economic development in the region. These measures include, but are not limited to, attempts at overcoming institutional prejudices against the Inuvialuit, the provision of relevant economic information, and the provision of an Economic Enhancement Fund of \$10 million.<sup>80</sup> As per the Agreement, Canada and the Inuvialuit agree that the economic measures set out in this section should relate to and support achievement of the following objectives:

- (a) full Inuvialuit participation in the northern Canadian economy; and
- (b) Inuvialuit integration into Canadian society through development of an adequate level of economic self reliance and a solid economic base.<sup>81</sup>

While not the principal focus of the Agreement, it includes provisions for social development programming. With the understanding that social conditions in the Inuvialuit Settlement Region, including health, education, housing, and standards of living, require improvement, the Agreement provides for an Inuvialuit Social Development Program. This program is funded in part through the federal government's establishment of a non-profit Social Development Fund of \$7.5 million.<sup>82</sup> This fund continues and is used to provide assistance to elders in accordance with criteria approved by the Inuvialuit Regional Corporation.

## 6.2 Increase in Investment Activity

*Table 5* describes the cash flow related to investment activities for the Inuvialuit Regional Corporation from 2006–10. During this period, 81 percent of the combined cash flow generated by Inuvialuit Regional Corporation was used to buy an asset of some sort. This includes a total of \$128,174 million of investment in marketable securities, property, plant, equipment investments, and business acquisitions. This figure is for the three largest areas of interest for the corporation, not total investment activities.<sup>83</sup> Furthermore, investment levels increased substantially from 2006 to 2009 and declined in 2010. Most of these fluctuations in investment were due to changes

<sup>79</sup>Committee for Original Peoples' Entitlement & Government of Canada, 1984, pp. 65–66.

<sup>80</sup>*Ibid.* pp. 67–68.

<sup>81</sup>The Western Arctic Claim, Inuvialuit Final Agreement, AS AMENDED, Section 16.(2).

<sup>82</sup>*Ibid.* pp. 69.

<sup>83</sup>Inuvialuit Regional Corporation. (2012). IRC combo cash flow trend 2006-2010.

in property, plant, and equipment-related activities, which represent the largest proportion of investment activities.<sup>84</sup>

|  | <b>2006</b>    | <b>2007</b>     | <b>2008</b>     | <b>2009</b>     | <b>2010</b>     | <b>Total</b>     |
|--|----------------|-----------------|-----------------|-----------------|-----------------|------------------|
| Marketable Securities                  | (4,787)        | 435             | 944             | (10,323)        | (11,162)        | (24,893)         |
| Property, Plant, and Equipment Related | (12,199)       | (6,328)         | (24,434)        | (36,671)        | (6,011)         | (85,643)         |
| Real Estate Related                    | 8,821          | (538)           | (703)           | -               | (982)           | 6 598            |
| Asset Sales                            | 7,537          | -               | 3,639           | -               | -               | 11,176           |
| Business Acquisition                   | (5,033)        | (12,182)        | (111)           | (312)           | -               | (17,638)         |
| Other                                  | 801            | (2,911)         | (307)           | -               | (129)           | (2,546)          |
| <b>Total</b>                           | <b>(4,860)</b> | <b>(21,524)</b> | <b>(20,972)</b> | <b>(47,306)</b> | <b>(18,284)</b> | <b>(112,946)</b> |

Source: (Inuvialuit Regional Corporation, 2012)

Overall, the high proportion of cash flow dedicated to investment suggests that investment and business expenditures within the Inuvialuit Settlement Region have been high in recent years. Furthermore, investment appears to be on a strong upward trend, with the exception of 2010.<sup>85</sup>

### **6.3 Access to Financial Capital**

The levels of borrowing for business activities among individual and corporate beneficiaries can provide insight. Specifically, *Table 6* describes the financing sources of the Inuvialuit Regional Corporation cash flow. The “external” financing source represents external debt taken on by the Inuvialuit Regional Corporation. Therefore, from 2006–10, the Inuvialuit Regional Corporation took on \$54,439 million of external debt. This debt represents 34 percent of the combined cash flow generated by the Inuvialuit Regional Corporation over this period (\$158,918 million). The Inuvialuit Regional Corporation generated the remaining 66 percent through internal sources.<sup>86</sup> From 2006 to 2009, the Inuvialuit Regional Corporation external borrowing increased from - \$5,510 million to \$25,000 million, and back down to -\$668 million in 2010. Overall, the high and increasing levels of external borrowing by the Inuvialuit Regional Corporation suggests ease of access to financial capital.

| <b>Source</b>             | <b>2006</b>    | <b>2007</b>   | <b>2008</b>   | <b>2009</b>   | <b>2010</b>     | <b>Total</b>  |
|---------------------------|----------------|---------------|---------------|---------------|-----------------|---------------|
| Internal                  | (230)          | (19)          | (745)         | 226           | (9,972)         | (10,740)      |
| External                  | (5,510)        | 17,881        | 17,736        | 25,000        | (668)           | 54,439        |
| Beneficiary Distributions | (2,050)        | (3,197)       | (4,199)       | (1,910)       | (1,982)         | (13,338)      |
| Deferred Revenue          | -              | -             | 1,970         | (1,092)       | 512             | 1,390         |
| <b>Total</b>              | <b>(7,790)</b> | <b>14,665</b> | <b>14,762</b> | <b>22,224</b> | <b>(12,110)</b> | <b>31,751</b> |

Source: (Inuvialuit Regional Corporation, 2012)

<sup>84</sup> *Ibid.*

<sup>85</sup> This indicator is vulnerable to outside markets and economy.

<sup>86</sup> *Ibid.*

Table 7 describes the cash flow generated from the Inuvialuit Regional Corporation operations. Overall, operations cash flow decreased sharply in 2007, but remained positive in each year from 2006 to 2007. Furthermore, operations cash flow increased steadily from 2007 to 2010. This suggests that the Inuvialuit Regional Corporation was able to generate a steady, positive cash flow throughout this period, providing the corporation with substantial access to financial capital.<sup>87</sup>

| Table 7 Inuvialuit Regional Corporation cash flow 2006–10 (\$M) |          |          |         |          |        |        |
|---|----------|----------|---------|----------|--------|--------|
|   | 2006     | 2007     | 2008    | 2009     | 2010   | Total  |
| Net Earnings for the Year                                       | 36,459   | 35,179   | 3,440   | (17,346) | 7,198  | 64,930 |
| Non Cash Items  | (15,354) | (10,273) | 14,917  | 19,647   | 7,328  | 16,265 |
| Net Change in Working Capital                                   | 431      | (20,134) | (6,653) | 18,234   | 13,632 | 5,510  |
| <b>Operating Cash Flow</b>                                      | 21,536   | 4,772    | 11,704  | 20,535   | 28,158 | 86,705 |

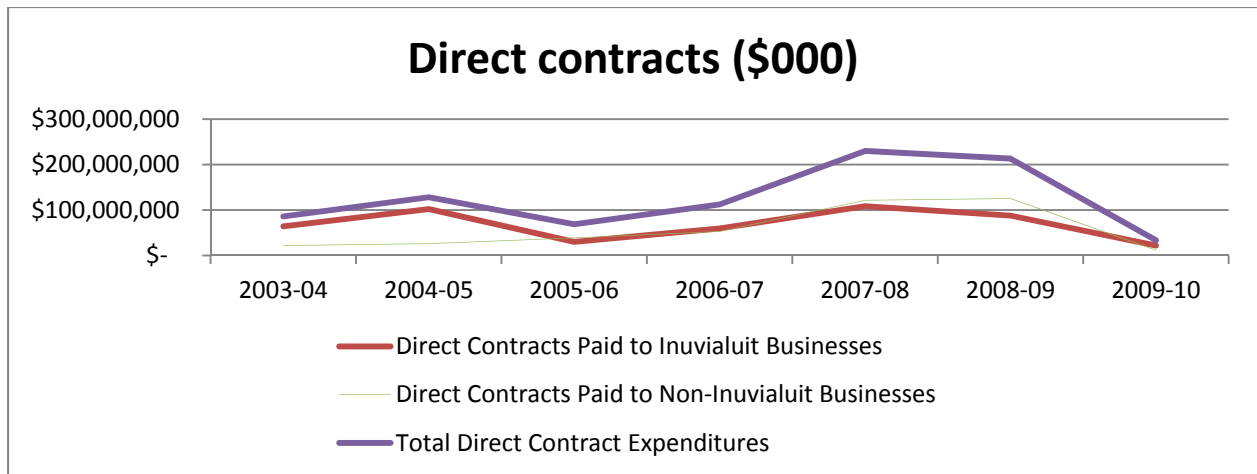
Source: (Inuvialuit Regional Corporation, 2012)

## 6.4 Rate of Business Development

The rate of business development has increased in Inuvialuit, as both direct contracts and subcontracts appear to be on an upward trend throughout fiscal year 2003–04 to fiscal year 2009–10. However, much of the gains, particularly with respect to direct contracts, come from payments to non-Inuvialuit businesses.

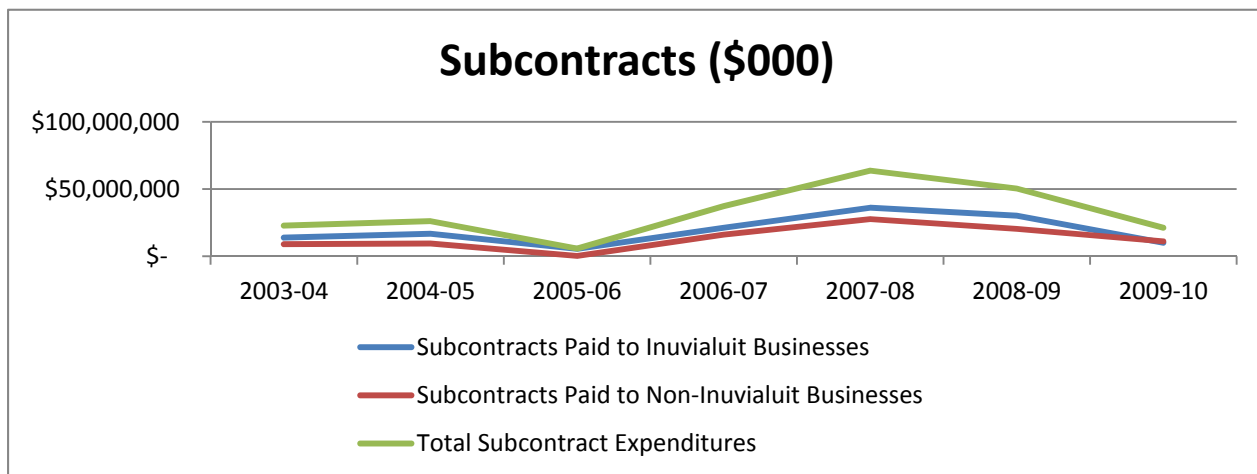
Figure 4 shows that the total value of direct contract expenditures has been on an overall upward trend throughout the period analyzed, with the exception of a steep drop off in fiscal year 2009–10. Total direct contract expenditures reached a high in 2007–08 at \$230,156,680,000. Most of the growth in direct contracts appears to be from steady growth of direct contracts paid to non-Inuvialuit businesses from 2003–04 to 2008–09. However, direct contracts paid to Inuvialuit businesses appear to contribute substantially to the significant growth experienced from 2005–06 to 2007–08. Overall, the value of direct contracts to Inuvialuit businesses has not changed significantly over the period, hovering around \$75,000,000,000.

<sup>87</sup> *Ibid.*



**Figure 4 Direct contracts paid to Inuvialuit businesses, non-Inuvialuit businesses, and total direct contracts (\$000)<sup>88</sup>**

As illustrated in *Figure 5*, the total value of subcontracts paid to Inuvialuit and non-Inuvialuit businesses has followed a similar pattern throughout fiscal year 2003–04 to fiscal year 2009–10.

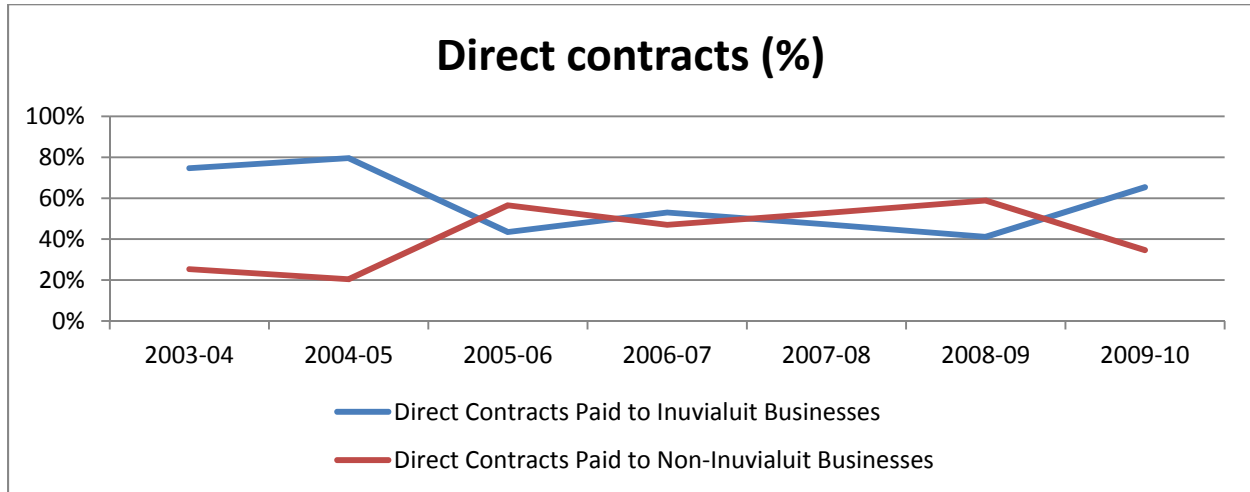


**Figure 5: Subcontracts paid to Inuvialuit businesses, non-Inuvialuit businesses, and total subcontract expenditures (\$000)<sup>89</sup>**

<sup>88</sup> Inuvialuit Regional Corporation. (n.d.-a). CCBA Report 2000-2011 Summary Data

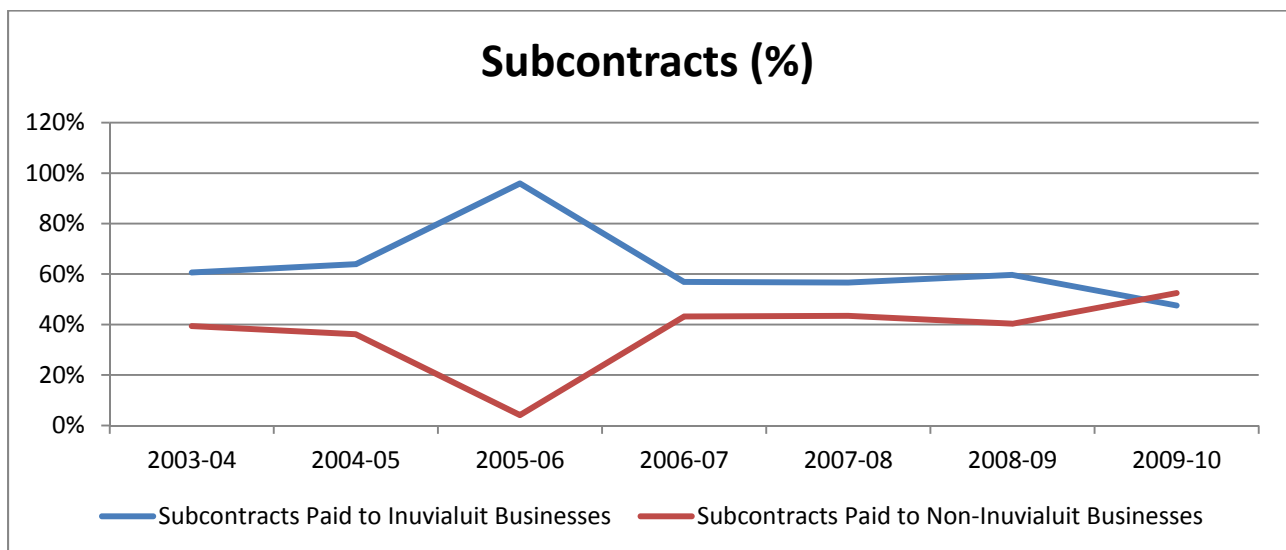
<sup>89</sup> *Ibid.*

Figure 6 describes the proportion of the total direct contract expenditures allocated to Inuvialuit businesses and non-Inuvialuit businesses. Over 2003–04 to 2009–10, direct contracts to non-Inuvialuit businesses have increased as a proportion of the total direct contracts, increasing from a low of 20 percent in 2004–05 to a high of 59 percent in 2008–09.<sup>90</sup>



**Figure 6: Percentage of total direct contract expenditures paid to Inuvialuit businesses and non-Inuvialuit businesses<sup>91</sup>**

Figure 7 shows that there was no similar increase in the proportion of subcontracts paid to non-Inuvialuit businesses. However, the average proportion of subcontracts for each group was similar to direct contracts, with Inuvialuit businesses representing approximately 60 percent and non-Inuvialuit businesses representing approximately 40 percent of the total value of subcontracts.



**Figure 7: Percentage of total subcontracts paid to Inuvialuit businesses and non-Inuvialuit businesses<sup>92</sup>**

<sup>90</sup> *Ibid.*

<sup>91</sup> *Ibid.*

## 6.5 Investment Activities

An examination of the levels of business and investment activities by corporations formed under the Agreement provides some evidence that the Inuvialuit Regional Corporation has been able to pursue investing activities and that these activities have been increasing over time.

Furthermore, the same data source provides information on cash distributed to beneficiaries (*see Table 8*). In total, the Inuvialuit Regional Corporation paid \$13,338 million to beneficiaries over this period, representing eight percent of the combined cash flow from 2006 to 2010. Beneficiary distributions increased from 2006 to 2008, but decreased substantially in 2009.<sup>93</sup> The average annual payment to beneficiaries over this period was \$2,667 million.

|                           | 2006    | 2007    | 2008    | 2009    | 2010    | Total    |
|---------------------------|---------|---------|---------|---------|---------|----------|
| Beneficiary Distributions | (2,050) | (3,197) | (4,199) | (1,910) | (1,982) | (13,338) |

Source: (Inuvialuit Regional Corporation)<sup>94</sup>

When examining investment, it is also important to note that the Inuvialuit Regional Corporation is involved in certain governance activities that would not be considered commercial investments in another context. At this time, it is not possible to accurately quantify the corporation's resource commitment to these activities. However, the corporation considers them and their associated costs significant. Regardless of their scope, these activities require the use of resources that could otherwise be directed to additional business investment or direct benefits to beneficiaries.

## 6.6 Financial Benefits to Beneficiaries

See *Table 8* above for a description of the Inuvialuit Regional Corporation cash distributions to beneficiaries. From this, we can conclude that beneficiaries have indeed seen direct financial benefits from the activities of Inuvialuit Regional Corporation over the period of 2006 to 2010.

In addition, there is evidence of continued pursuit of contribution agreements through the Inuvialuit corporations, much of which may be spent on programming benefiting beneficiaries and residents of the Inuvialuit Settlement Region as per *Table 9*.

| Year | Total      |                |               | Inuvialuit Settlement Region (ISR)                  |   |  |           | \$ not staying in ISR |
|------|------------|----------------|---------------|---|---|--|-----------|-----------------------|
|      |            |                |               | \$ staying in Inuvialuit Regional Corporation (IRC) |   |  |           |                       |
|      | Received   | Total expenses | Salaries paid | IRC Core  | Inuvialuit Development Corporation Core | Stanton/Aklak/Inuvik Gas Limited/Paulatuk Visitor Centre Corporation | Other ISR |                       |
| 2011 | 12,070,857 | 13,461,181     | -             | 4,089,512   | 489,941                                 | 448,936  | 6,030,714 | 2,401,410             |
| 2012 | 10,926,609 | 9,691,529      | 3,485,921     | 3,421,917   | 423,123                                 | 334,330  | 4,148,206 | 1,351,803             |

<sup>92</sup> *Ibid.*

<sup>93</sup> Inuvialuit Regional Corporation. (2012). IRC combo cash flow trend 2006-2010.

<sup>94</sup> *Ibid.*

## 6.7 Improved Employability

*Figure 8* and *Figure 9* show that, from the period of fiscal year 1997–98 to fiscal year 2010–11, Kindergarten to Grade 12 enrolment has steadily declined for the Northwest Territories, the Inuvialuit Settlement Region, Aboriginal persons within the Inuvialuit Settlement Region, and most communities within Inuvialuit. This suggests that education levels have declined over this period, providing some evidence that beneficiaries have not improved their employability through education.

However, as illustrated by *Figure 10* and *Figure 11*, the percentage of the population aged 15 or older with high school education or more has increased over the same period. In particular, the Northwest Territories saw an increase of nine percentage points from 60 percent to 69 percent, the Inuvialuit Settlement Region saw an increase of four percentage points from 54 percent to 58 percent, and Aboriginal persons within the Inuvialuit Settlement Region increased eight percentage points from 35 percent to 43 percent. As well, most communities within the Inuvialuit Settlement Region saw increases in the percentage of the population with high school education or more.

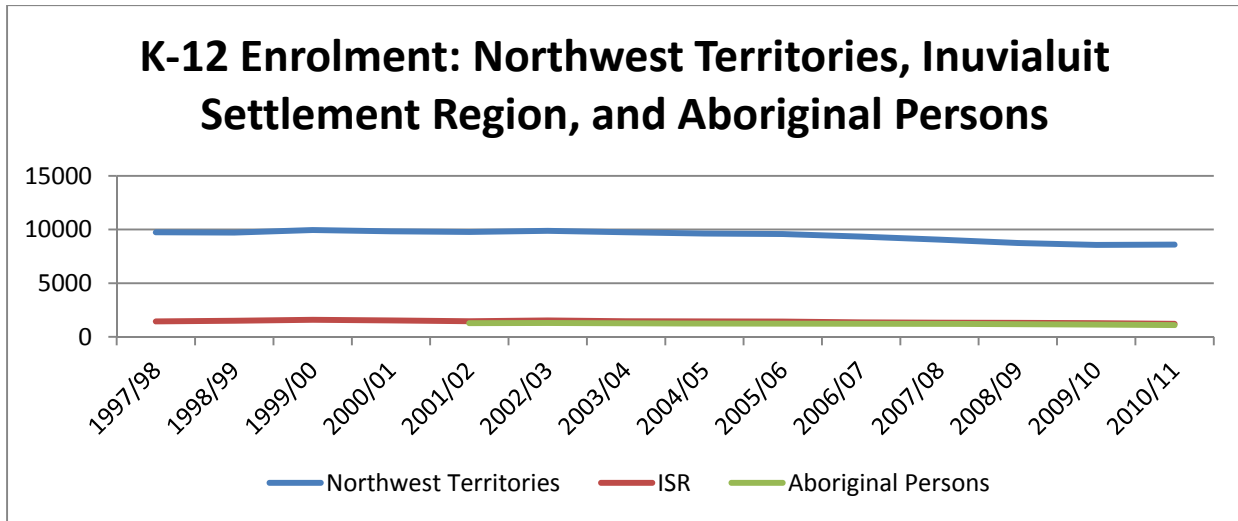
Although these jurisdictions have seen increases in the proportion of high school graduates, the overall percentage of high school graduates for Canada as a whole was 62 percent in 1991 and increased to 76 percent in 2006. Thus, Canada had higher proportions of high school graduates in 1991, 1996, 2001, and 2006 (the years for which we have data for Canada) than any other jurisdiction analyzed, with the exception of Inuvik. Furthermore, the percentage of high school graduates across Canada increased by more percentage points from 1991 to 2006 than any other jurisdiction.

To summarize, there is little evidence that beneficiaries in the Inuvialuit Settlement Region have improved employability through education and training. Overall educational enrolment in the region has been decreasing. The percentage of high school graduates in the Inuvialuit Settlement Region is lower than Canada. Furthermore, the percentage of high school graduates in the Inuvialuit Settlement Region has grown at a slower rate from 1991 to 2006, widening the gap in graduation rates and employability between the Inuvialuit and other Canadians.

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<sup>95</sup> Inuvialuit Regional Corporation. IRC and ISR 2010 and 2011 Contribution Agreement Spending.





ISR = Inuvialuit Settlement Region

Figure 8: K-12 school enrolment levels for the Northwest Territories, Inuvialuit Settlement Region, and Aboriginal persons within the Inuvialuit Settlement Region<sup>96</sup>

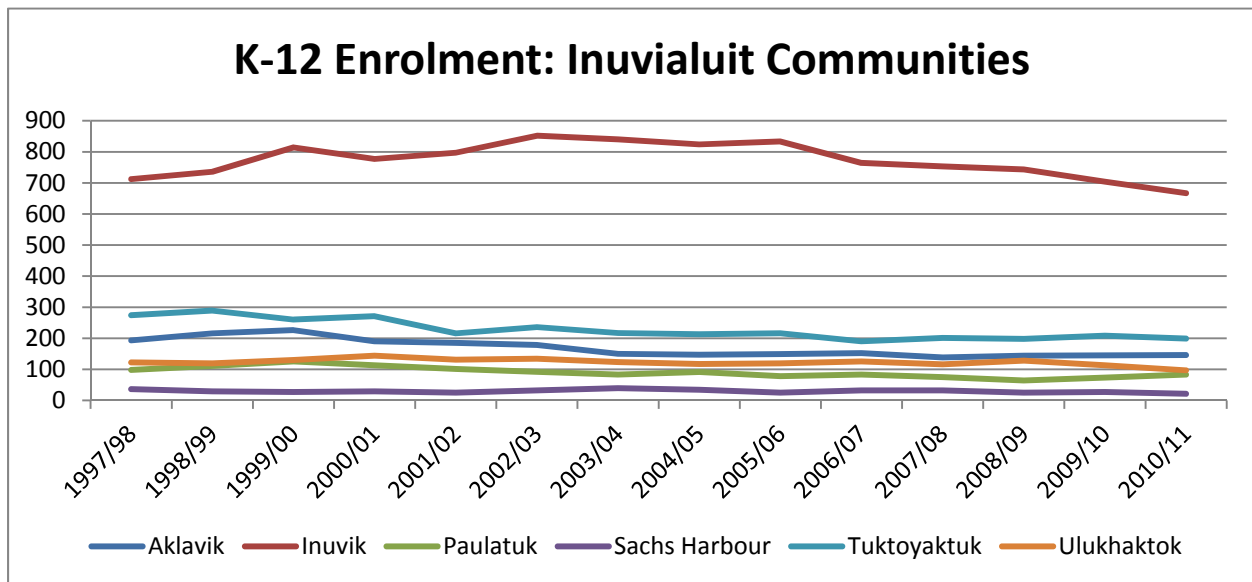
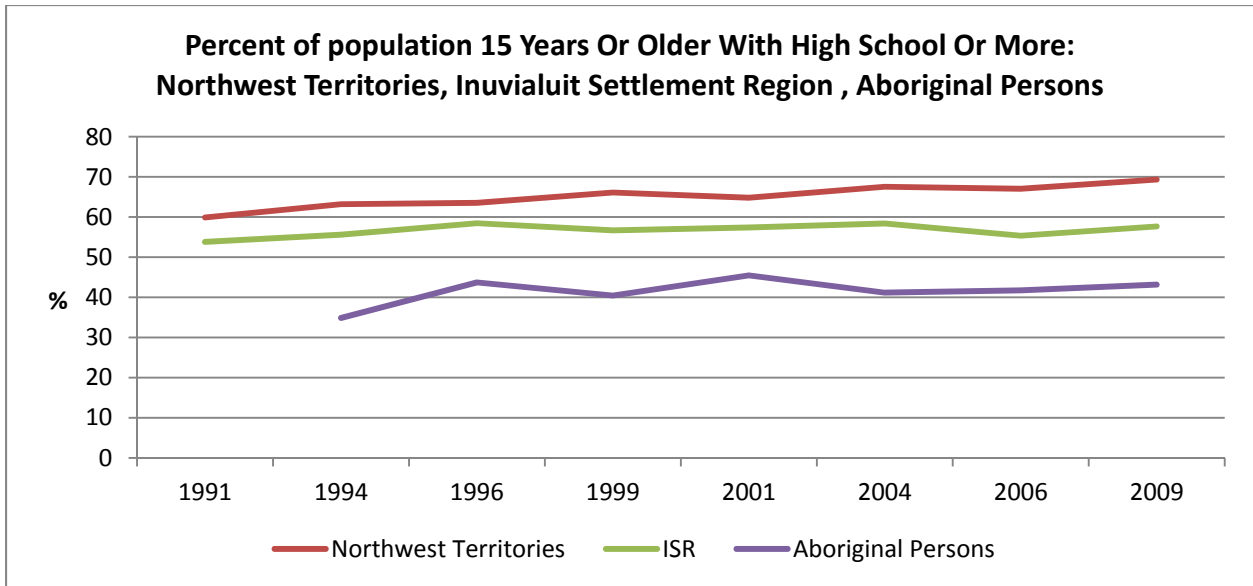


Figure 9: K-12 Enrolment, broken down according to various Inuvialuit Settlement Region communities<sup>97</sup>

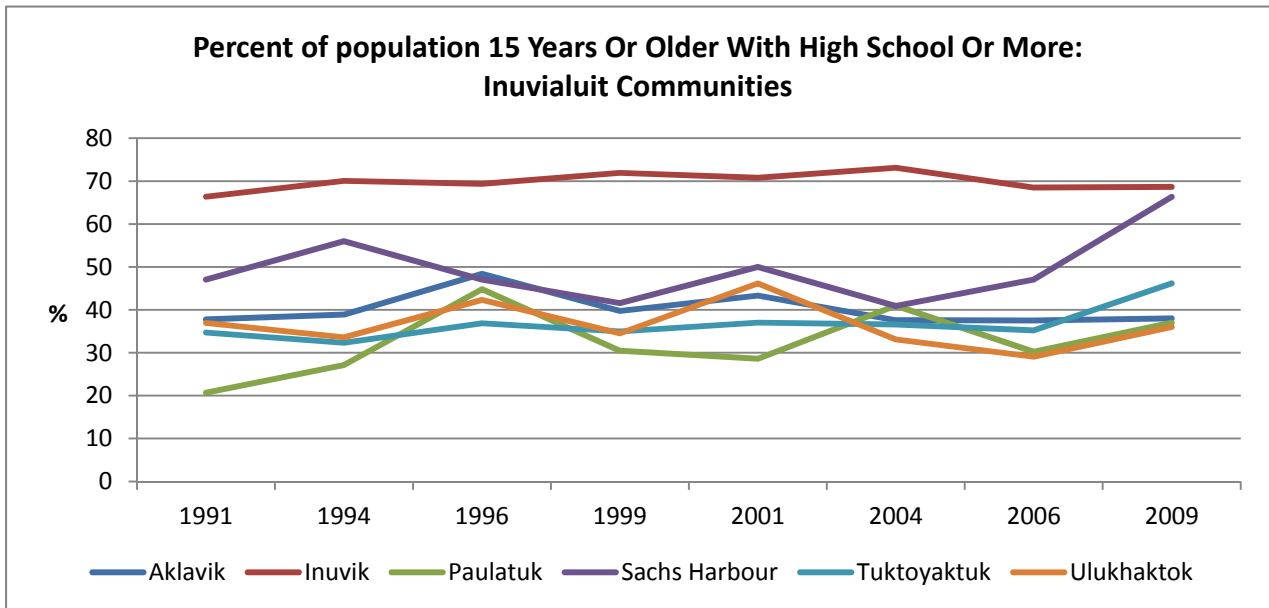
<sup>96</sup> Inuvialuit Regional Corporation. (2011). Inuvialuit Indicators.

<sup>97</sup> *Ibid.*



ISR = Inuvialuit Settlement Region

**Figure 10: Percentage of population aged 15 years or older with high school education or more (Northwest Territories, the Inuvialuit Settlement Region, and Aboriginal persons within the Inuvialuit Settlement Region)<sup>98</sup>**



**Figure 11: Percentage of population aged 15 years or older with high school education or more, broken down by Inuvialuit community<sup>99</sup>**

<sup>98</sup> *Ibid.*

<sup>99</sup> *Ibid.*

Table 10, below describes the distribution of skills in the Northwest Territories and the Inuvialuit Settlement Region. It also describes the distribution of skills among Aboriginal persons within Inuvialuit.

In both 2004 and 2009, Aboriginal persons within Inuvialuit Settlement Region had the highest percentage of low-skilled and unskilled individuals. Northwest Territories and the Inuvialuit Settlement Region had similar levels of high- and medium-skilled workers. However, the Inuvialuit Settlement Region had lower proportions of medium-skilled workers and higher proportions of unskilled workers. The relatively high proportion of unskilled workers in the Inuvialuit Settlement Region and among Aboriginal persons in Inuvialuit suggests that beneficiaries have not improved their employability through education and training activities.

| Table 10: Distribution of skills, 2004 and 2009 |             |                       |                              |                                      |
|---|-------------|-----------------------|------------------------------|--------------------------------------|
| Year  | Skill level | Northwest Territories | Inuvialuit Settlement Region | Aboriginal persons within Inuvialuit |
|   |             | (%)                   |                              |                                      |
| 2004  | High        | 32.7                  | 32.6                         | 21.1                                 |
|   | Medium      | 28.2                  | 26.7                         | 26.5                                 |
|   | Low         | 26.0                  | 25.0                         | 29.3                                 |
|   | Unskilled   | 11.0                  | 13.0                         | 19.3                                 |
| 2009  | High        | 32.3                  | 33.0                         | 21.8                                 |
|   | Medium      | 28.7                  | 27.8                         | 27.1                                 |
|   | Low         | 26.6                  | 23.3                         | 29.6                                 |
|   | Unskilled   | 11.4                  | 14.7                         | 20.0                                 |

Source: (Inuvialuit Regional Corporation) <sup>100</sup>

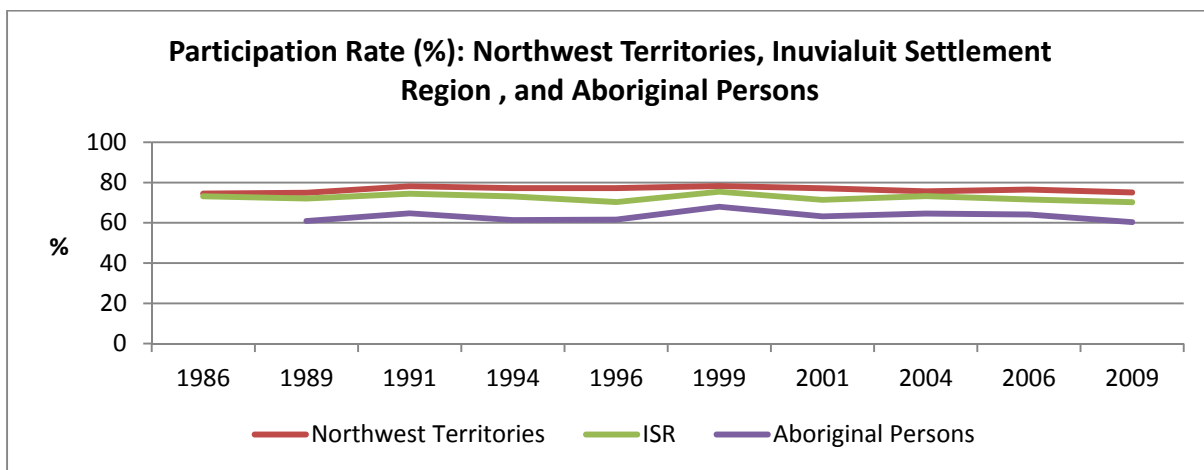
## 6.8 Increased Participation in Labour Market

Figure 12 to Figure 17 below describe some of the major employment statistics for the Northwest Territories and the Inuvialuit Settlement Region, including employment rates, participation rates, and unemployment rates. Readers should review the data and individual charts included in this section with caution since not all separate beneficiaries from other residents of the Inuvialuit Settlement Region. For example, individuals who identify as Aboriginal persons may include beneficiaries along with other regional residents. Similarly, certain communities will include beneficiaries and non-beneficiaries. Also note that the data on the Inuvialuit communities have much greater variance than that on the larger jurisdictions. This may be because the populations of these communities are relatively low. As a result, small changes, for example, in the number of unemployed in a particular community can have a much larger impact on the unemployment rate for the community. The intent of the section is to examine if, on balance, the data are suggestive of improvements as a result of the Agreement or of continued systematic difference between beneficiaries and other Canadians. Analysis for the

<sup>100</sup> *Ibid.*

Inuvialuit labour market participation does not, however, include beneficiaries employed outside of the Inuvialuit Settlement Region as they represent a small number of beneficiaries.<sup>101</sup>

Figure 12 and Figure 13 outline participation rates from 1986 to 2009. These data suggest that beneficiaries have not significantly increased labour market participation since the signing of the Agreement. Throughout this period, none of the jurisdictions included appear to have increased labour market participation rates since 1986. Furthermore, the participation rates for Aboriginal persons and the Inuvialuit Settlement Region are consistently lower than the rate for the Northwest Territories throughout the period. For communities within Inuvialuit, participation rates are also mostly flat, with the exception of Sachs Harbour, which saw an increase of 18 percentage points from 61 percent in 1986 to 80 percent in 2009. Although participation rates generally did not change over this period, both Northwest Territories and Inuvialuit participation rates were higher than Canada-wide Aboriginal participation rates.<sup>102</sup>



ISR = Inuvialuit Settlement Region

**Figure 12: Participation rate for the Northwest Territories, Inuvialuit Settlement Region, and Aboriginal persons within the Inuvialuit Settlement Region<sup>103</sup>**

<sup>101</sup> Data from NorTerra Inc, a private, investment-focused management and holding company which is equally owned by the Inuvialuit Development Corporation and the Nunasi Corporation on behalf of the Inuit of Nunavut, indicated that 35 Inuvialuit beneficiaries are employee by them in Edmonton, Yellowknife, Hay River, Calgary, and Fort MacKay.

<sup>102</sup> *Ibid.*

<sup>103</sup> *Ibid.* Note that participate rates in Inuvik would include other non-Inuvialuit. In Sachs Harbour, the economy is based on government services.

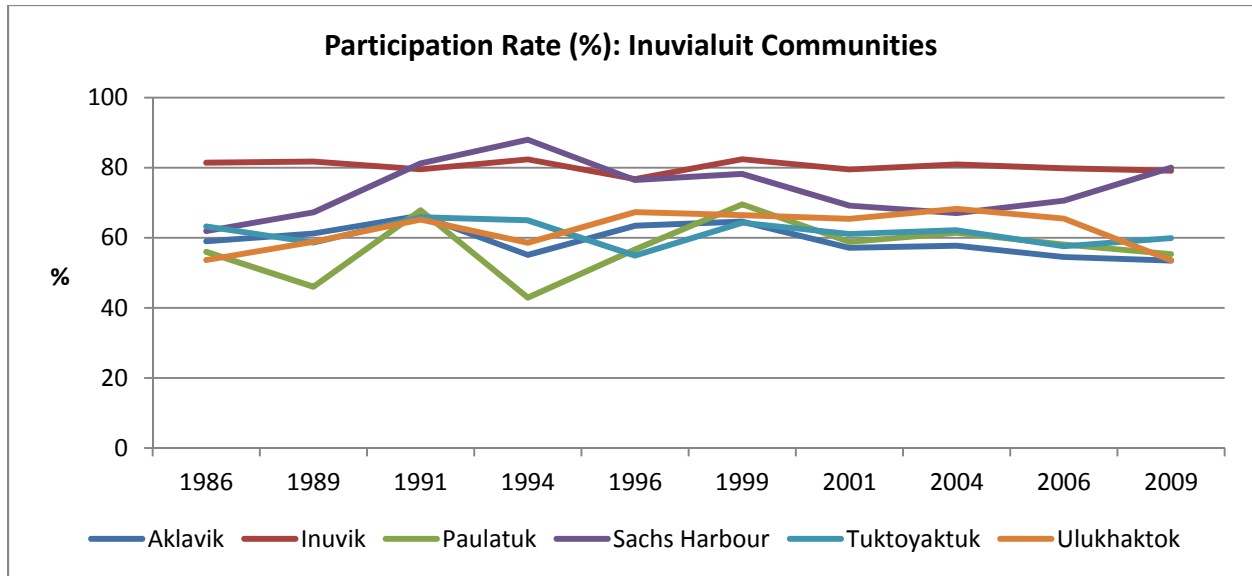
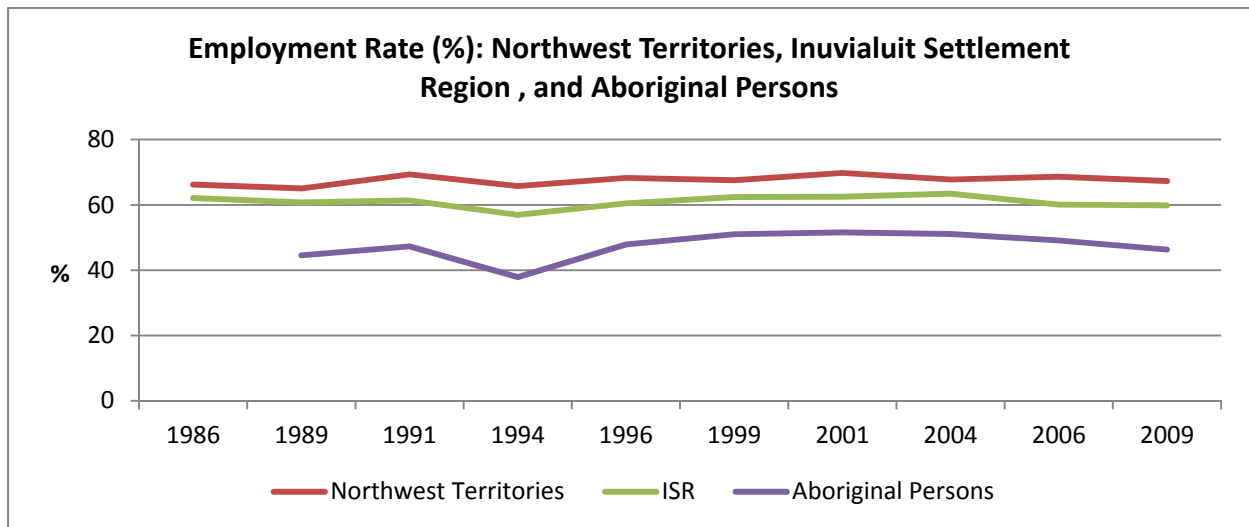


Figure 13: Participation rate for communities within Inuvialuit<sup>104</sup>

Employment rates described in *Figure 14* and *Figure 15* follow a similar trend. In particular, there are no significant increases or decreases in employment over the period for the Northwest Territories, the Inuvialuit Settlement Region or Aboriginal persons within the Inuvialuit Settlement Region. Furthermore, the Inuvik community outperformed the Northwest Territories as a whole and most of the other Inuvialuit communities (with the exception of Sachs Harbour from 1991 to 1996). Employment rates for the Inuvialuit Settlement Region were similar to Canadian employment rates over the period.<sup>105</sup>



ISR = Inuvialuit Settlement Region

Figure 14: Employment rate for the Northwest Territories, the Inuvialuit Settlement Region, and Aboriginal persons within the Inuvialuit Settlement Region<sup>106</sup>

<sup>104</sup> *Ibid.*

<sup>105</sup> *Ibid.*

<sup>106</sup> *Ibid.*

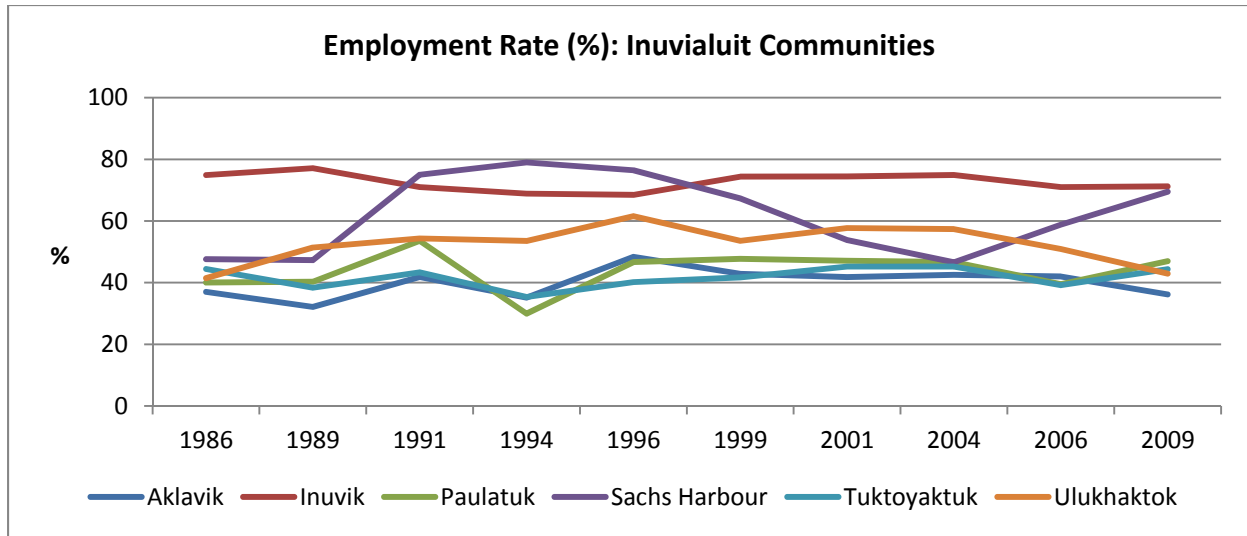
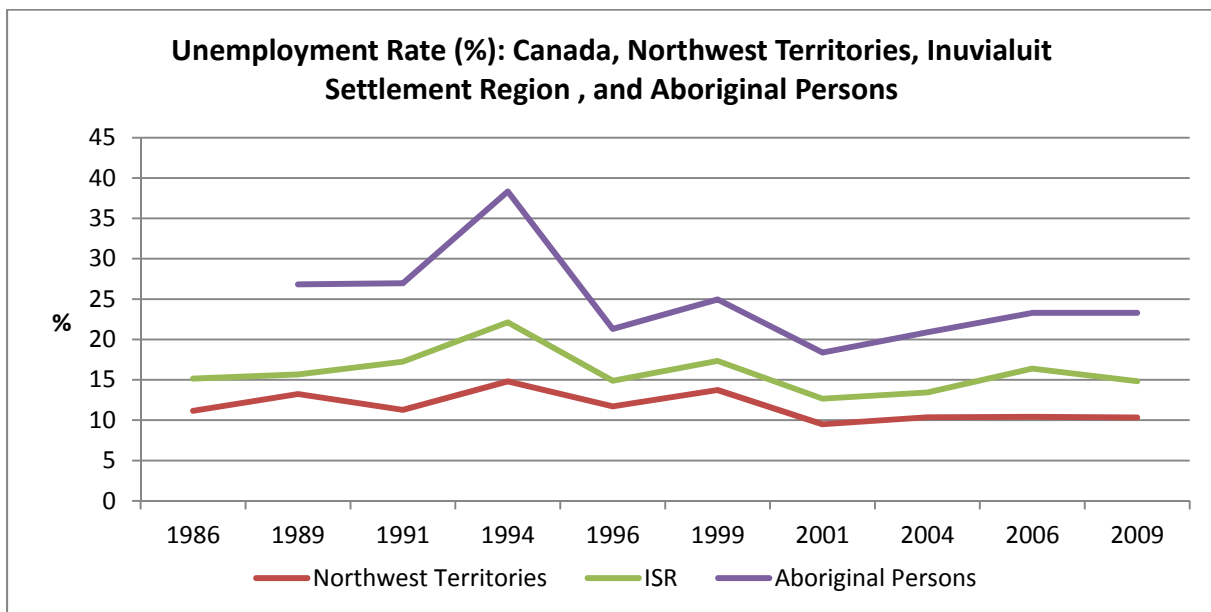


Figure 15: Employment rate for communities within Inuvialuit<sup>107</sup>

In contrast, unemployment rates experienced a downward trend in the Northwest Territories and the Inuvialuit Settlement Region. Aboriginal persons within Inuvialuit experienced the most significant drop, declining from 38 percent in 1994 to 23 percent in 2009. Given the relatively flat participation rates for these regions, this suggests that individuals looking for work in the Inuvialuit Settlement Region are more likely to find employment.<sup>108</sup>



ISR = Inuvialuit Settlement Region

Figure 16: Unemployment rate for the Northwest Territories, the Inuvialuit Settlement Region, and Aboriginal persons within the Inuvialuit Settlement Region<sup>109</sup>

<sup>107</sup> *Ibid.*

<sup>108</sup> This figure would include Inuvik and non-Inuvialuit so results should be taken with caution.

<sup>109</sup> *Ibid.* Note that these data reflect the stronger employment in Inuvik.

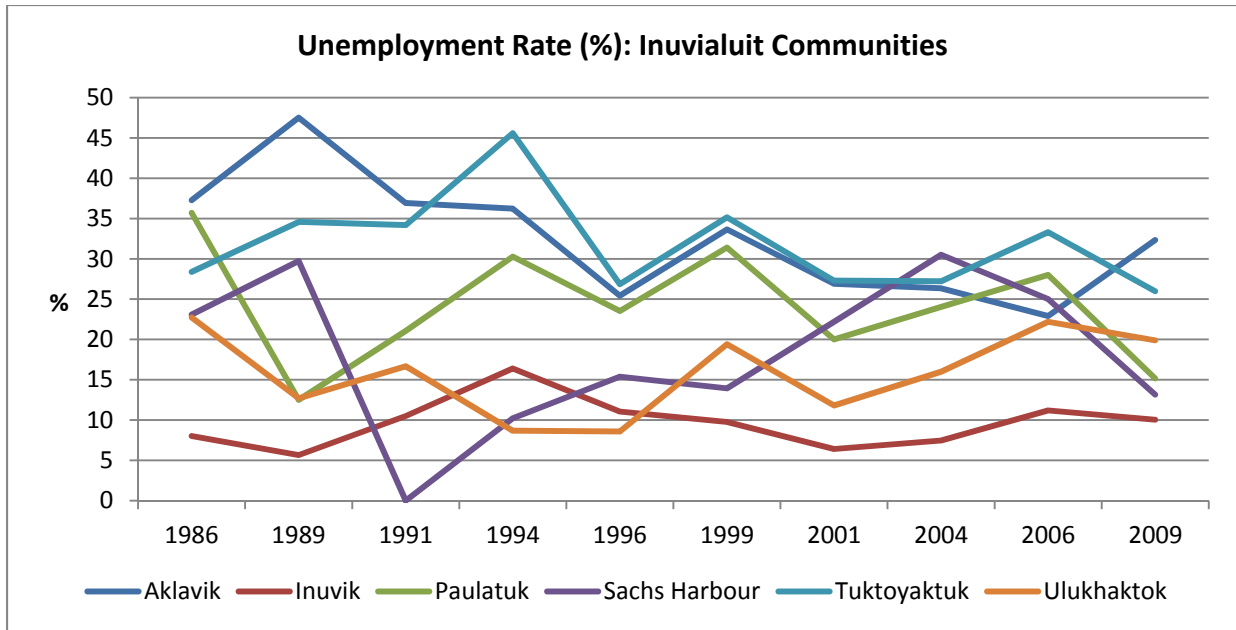


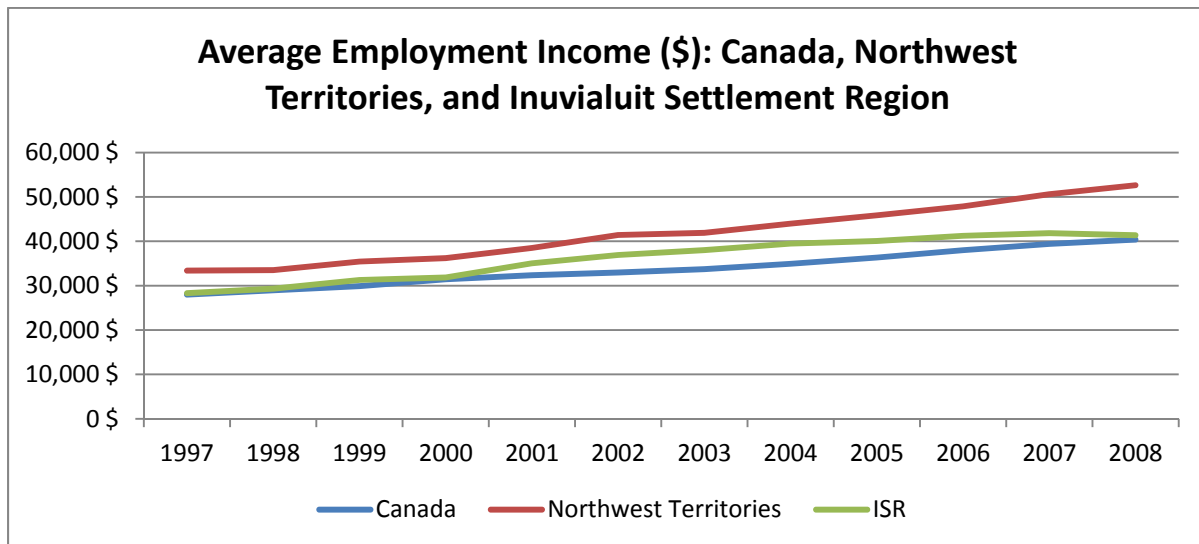
Figure 17: Unemployment rate for communities within Inuvialuit<sup>110</sup>

## 6.9 Increased Economic Benefits from Employment

Overall, beneficiaries in the Inuvialuit Settlement Region experienced significant benefits in the form of employment income from the period 1997 to 2008. *Figure 18* illustrates that employment income in the Northwest Territories and the Inuvialuit Settlement Region consistently exceeded Canada-wide averages throughout this period.<sup>111</sup>

<sup>110</sup> *Ibid.*

<sup>111</sup> The inclusion of Inuvik greatly increases the income in the Inuvialuit Settlement Region.



ISR = Inuvialuit Settlement Region

**Figure 18: Average employment income for Canada, Northwest Territories, and the Inuvialuit Settlement Region<sup>112</sup>**

Although the Inuvialuit Settlement Region has performed well in terms of employment income levels and growth, *Figure 19* illustrates that performance varied substantially across each Inuvialuit community. In particular, the Inuvik community significantly outperformed the other Inuvialuit communities in terms of levels and growth of average employment income. The employment income levels and growth of Inuvik closely resembles the trend experienced for the Northwest Territories. In contrast, all other Inuvialuit communities lagged significantly behind the Canadian average, with approximately \$20,000 average employment income in 1997, growing to about \$28,000 in 2008. Thus, there has been an unequal distribution of economic benefits across Inuvialuit communities since the signing of the agreement.<sup>113</sup>

<sup>112</sup> *Ibid.*

<sup>113</sup> It should be noted that cost of living has not been factored in. Income, even in Inuvik, would not resemble a similar level as the Northwest Territories if income was adjusted for cost of living.



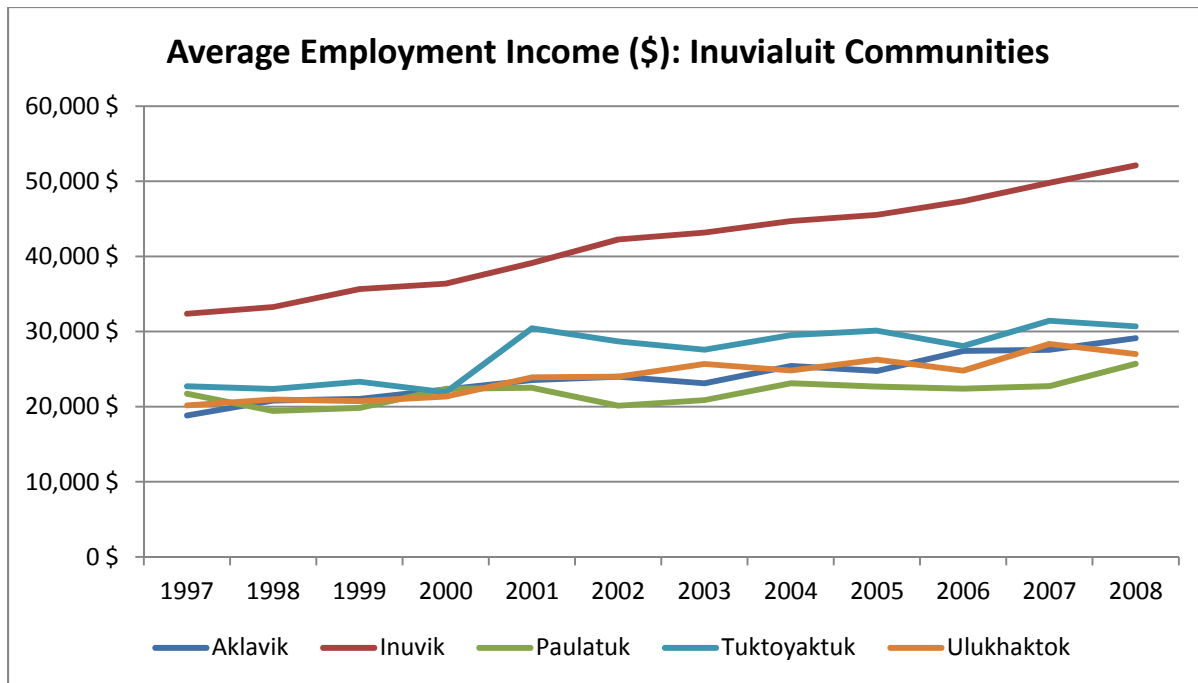


Figure 19: Average employment income, by individual Inuvialuit community<sup>114</sup>

## 6.10 Financial Benefits from Harvesting Activities

To address the financial benefits from harvesting activities, data were accessed from the 2006 Aboriginal Peoples Survey, available on the Inuit Knowledge Centre website.<sup>115</sup> These data only gather 2005 point-in-time information, and cover the Inuvialuit Settlement Region, Nunavut, Nunavik, Nunatsiavut, and Inuit Nunangat. Since these data covers a single point in time, trends or substantial context to the data cannot be made.

In 2005, 13 percent of Aboriginal people in the Inuvialuit Settlement Region over 15 years of age sold fish, meat, carvings, skin clothing, furs, crafts, ivory or similar goods in the year ending December 31, 2005. In contrast, the corresponding statistic for Nunavut was substantially higher at 19 percent. Approximately 10 percent of the respondents from Inuvialuit stated that the value of the goods sold was between \$1 and \$2,499, while five percent stated that the value was between \$2,500 and \$19,999.<sup>116</sup>

<sup>114</sup> *Ibid.*

<sup>115</sup> Inuit Knowledge Centre. (n.d.). Naasautit: Inuit Health Statistics on sold fish, meat, carvings, skin clothing, furs, crafts, ivory or similar goods. Retrieved March 18, 2013, from <http://www.inuitknowledge.ca>

<sup>116</sup> *Ibid.*

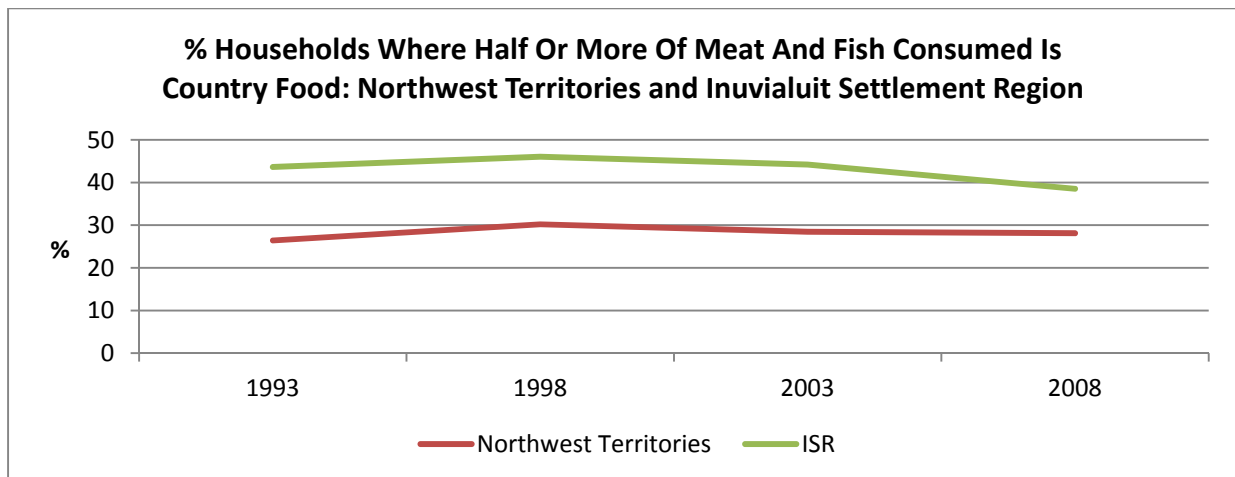
More recently, a 2012 study conducted by the Inuvialuit Regional Corporation found harvesting to be a net economic contributor to the quality of life of Inuvialuit households in Paulatuk and which benefits lower-income households proportionally more than higher-income households. However, the cost of large equipment must be carefully managed if it is not to outweigh this net benefit. Increased opportunities for wage employment do not necessarily mean a decrease in participating in subsistence harvesting.<sup>117</sup>

## 6.11 Improved Non-Market Benefits from Traditional Harvesting Activities

Figure 20 and Figure 21 illustrate data on the percentage of households where half or more of their meat and fish consumed is country food. This serves as an indicator of non-market benefits from traditional harvesting activities.

From the period of 1993 to 2008, neither the Northwest Territories nor the Inuvialuit Settlement Region experienced significant changes in this statistic. In particular, the Inuvialuit Settlement Region experienced a modest decrease and the Northwest Territories a modest increase. Thus, it does not appear that the agreements resulted in a significant increase in consumption of country food.

In the Inuvialuit Settlement Region, a much larger proportion of meat and fish consumption was country food (about 40 percent in the Inuvialuit Settlement Region compared to only 28 percent in the Northwest Territories).



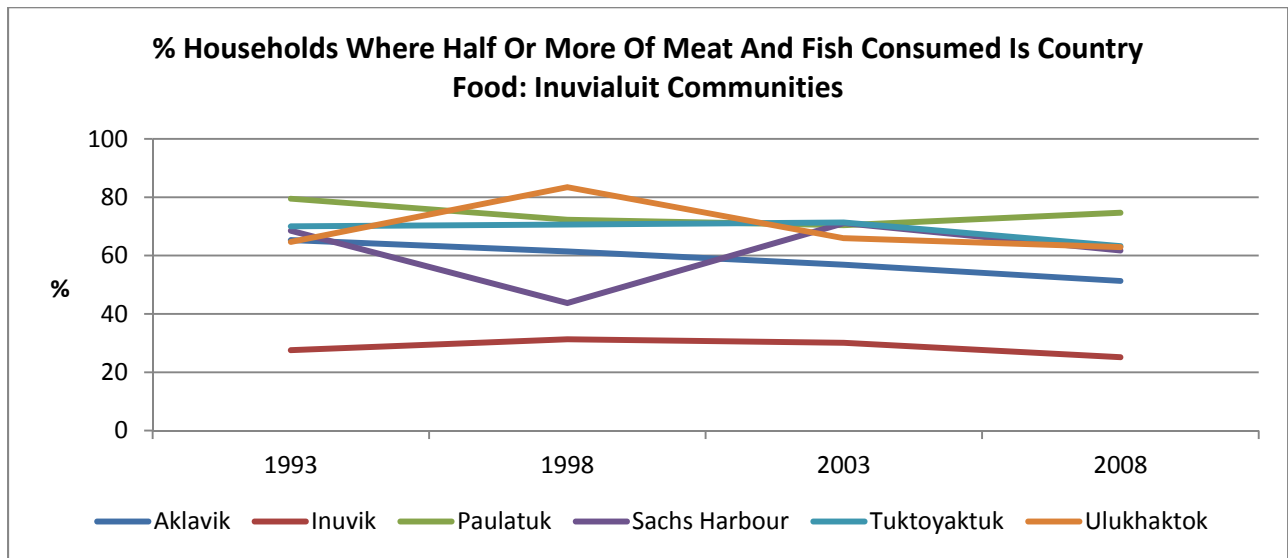
ISR = Inuvialuit Settlement Region

**Figure 20: Percentage of households in the Northwest Territories and the Inuvialuit Settlement Region where half or more of meat and fish consumed is country food<sup>118</sup>**

<sup>117</sup> Inuvialuit Regional Corporation (2012) The Economic Life of Inuvialuit Households, 2012 Paulatuk Study

<sup>118</sup> Inuvialuit Regional Corporation. (2011). Inuvialuit Indicators.

However, there are some notable differences in consumption of country food within the Inuvialuit Settlement Region. In particular, consumption of country food is much lower in Inuvik compared with the other Inuvialuit communities.<sup>119</sup> In approximately 28 percent of Inuvik households over half of their meat and fish consumed is country food. In contrast, this statistic for the other communities in Inuvialuit is approximately 60 percent. Paulatuk had the highest relative consumption of country food in the Inuvialuit Settlement Region, with 74.7 percent of households obtaining more than half their meat and fish from harvesting. See *Figure 21* below for an illustration.



**Figure 21: Percentage of households in Inuvialuit Communities where half or more of meat and fish consumed is country food<sup>120</sup>**

<sup>119</sup> Inuvik has a large non-Aboriginal population which influences country food consumption.

<sup>120</sup> *Ibid.*

## 7. Key Challenges

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Though the structures are in place to support the intended results, and positive economic results are being demonstrated as a result of modern treaties, there remain a number of challenges related to the implementation of modern treaties, which directly affect the extent to which intermediate and ultimate outcomes are achieved.

One of the key challenges remains the perception that modern treaty obligations have not been fully implemented resulting in barriers to progress. As summarized by the Land Claims Agreement Coalition,

*Our land claims agreements were negotiated and entered into in good faith by the Aboriginal signatories with the sincere belief that they would provide for appropriate recognition of their rights and interests in their traditional territories, and deliver a turning point in the difficult socio-economic circumstances of many of Canada's Aboriginal peoples.*

*Over the last three decades, however, such necessary improvements have not occurred. Numerous independent reviewers, including the Auditor General [2003 and 2007 reports], the Standing Senate Committee on Aboriginal Peoples [May 2008] and the UN Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people [Mission to Canada, 2004], have confirmed that the Government of Canada is fulfilling neither its obligations in full under these agreements, nor their spirit and intent. Consequently modern treaties are failing to achieve their overall fundamental developmental objectives.*

*Coalition members face significant ongoing challenges in achieving full implementation of these important agreements. For example, meaningful implementation of Canada's first modern treaty, the James Bay and Northern Quebec Agreement, was commenced only a quarter century after its signing, after numerous court cases and international advocacy by the Grand Council of the Crees (Eeyou Istchee). The Federal government's refusal to develop mechanisms for full implementation of land claims agreements continues to undermine the fundamental promise of these agreements, and some Coalition members are reluctantly turning to the courts. Nunavut Tunngavik Inc., the Inuit organization that represents the Inuit of Nunavut, is currently suing the Federal government for \$1 billion, relating to federal failures to implement fully the 1993 Nunavut Land Claims Agreement. This could well be a sign of things to come as more Coalition members report significant institutional barriers to the proper and meaningful implementation of their agreements. Land Claims Agreement Coalition members are*

*simply asking that the fundamental law of the land — the terms that the federal government agreed to — be upheld.<sup>121</sup>*

A 2011 Office of the Auditor General of Canada Status Report found that AANDC has demonstrated greater commitment to meeting the spirit and intent of land claims agreements and measuring their impacts. The Department has also strengthened its coordinating framework so that other federal organizations understand their obligations under the agreement.<sup>122</sup> Data from the Treaty Obligation Monitoring System was not available at the time of the evaluation so a quantitative review of the degree to which Canada is meeting its obligations under modern treaties was not conducted.

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<sup>121</sup> Retrieved from the Land Claims Agreement website <http://www.landclaimscoalition.ca/implementation-issues> (October 24, 2013)

<sup>122</sup> 2011, June Report of the Auditor General of Canada, Chapter 4 – Programs for First Nations on Reserves.

## ***Section Two: Inuvialuit Component***

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## **8. Introduction**

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### **8.1 Overview: The Inuvialuit and the Final Agreement**

There are six communities in the Inuvialuit Settlement Region, Aklavik, Inuvik, Sachs Harbour, Paulatuk, Tuktoyaktuk and Ulukhaktok. Descendants of the Thule Inuit as regional groupings of Inuvialuit, during the late 1800s the Inuvialuit people underwent severe hardship and were almost wiped out by foreign diseases and undesirable impacts of contact with non-Indigenous whalers, traders and missionaries. A testament to Inuvialuit resilience and strength, their numbers recovered over the next hundred years, which saw in-migrations of Inupiaq and non-Indigenous peoples to Inuvialuit lands. During the 1970s and early 1980s, the Inuvialuit engaged in processes focused on recognition of their rights to existence as an Indigenous people, achieving the Inuvialuit Final Agreement in 1984. Currently, the Inuvialuit population numbers approximately 5,000, resident both in and outside of the Inuvialuit Settlement Region.

The Inuvialuit Regional Corporation (IRC) was established to administer the Inuvialuit Final Agreement and manage the collective affairs of the Inuvialuit, including their private lands. Governed by a Board of Directors drawn from the chairpersons of each community corporation and led by a full time Chairperson elected by the IRC Board, the IRC mandate has three distinct elements: investment and economic development; stewardship of lands and resources; and community and social development.

The Inuvialuit have exclusive ownership of surface and subsurface rights. Land ownership is vested in the Inuvialuit Land Corporation. Within the IRC, the Inuvialuit Land Administration administers and manages these lands and the Inuvialuit Land and Administration Commission is responsible for land use policy. Supported by community Hunters and Trappers Committees, the Inuvialuit Game Council represents collective Inuvialuit interests in managing wildlife and wildlife habitat in the Inuvialuit Settlement Region. The Joint Secretariat supports the co-management boards functioning in the Inuvialuit Settlement Region: The Environmental Impact Screening Committee; the Environmental Impact Review Board; the Wildlife Management Advisory Councils (Northwest Territories and North Slope); and the Fisheries Joint Management Committee. The Northwest Territories (NWT) Water Board and various federal departments and agencies also have legislative and regulatory responsibilities in the Inuvialuit Settlement Region.

Investment and economic development responsibilities rest with the Inuvialuit Investment Corporation and the Inuvialuit Development Corporation. The Investment Corporation is responsible for investing and protecting land claim compensation capital and any additional capital as instructed by the IRC. The Inuvialuit Development Corporation actively invests in companies, joint ventures and other initiatives with the purpose of creating profit and achieving economic development goals such as establishing and supporting local economies, creating employment, and fostering Inuvialuit-owned business growth. The IRC holds interests in oil and gas industry-related entities through the Inuvialuit Petroleum Corporation.

Social Development responsibilities are divided between the Community Development division of the IRC, the Inuvialuit Education Foundation, the Social Development Fund, and the Inuvialuit Cultural Centre.

## 8.2 IRC Goals and Strategic Focus

In the Inuvialuit Final Agreement, three goals are listed:

Preserve Inuvialuit cultural identity and values within a changing northern society;

- Enable Inuvialuit to be equal and meaningful participants in the northern and national economy and society; and,
- Protect and preserve the Arctic wildlife, environment and biological productivity.

Further, the IRC has identified six corporate values guiding the pursuit of those goals, namely:

- The preservation and growth of the financial compensation flowing from the Inuvialuit Final Agreement;
- The representation and advancement of Inuvialuit interests in the areas of external relations, including federal, territorial and municipal governments, circumpolar and other Aboriginal organizations, private sector and special interest groups;
- The stewardship of Inuvialuit lands;
- The identification and successful implementation of economic, social, cultural, education, training and employment programs that benefit Inuvialuit;
- The provision of technical and administrative support to Community Corporations and beneficiaries; and,
- The promotion of rights and benefits accorded Inuvialuit under the Inuvialuit Final Agreement and the Constitution of Canada (s.35).

These goals and values are the foundation for the six key strategies deriving from the goals, and guiding the strategic direction of its operations:

- To strengthen the social and cultural fabric through programs that promote healthy individuals and communities that are knowledgeable and respectful of the past, preserve the Inuvialuit cultural identity in the present and look to the future;
- To exercise stewardship over Inuvialuit Lands;
- To improve the capacity of individuals, families and communities so they are strong, self-reliant and achieve their full potential as participants in their communities and the northern economy;
- To establish and participate in governance structures that foster self-determination and enable Inuvialuit to be equal and meaningful partners in the northern and national economy and society;
- To identify, develop and promote sustainable economic opportunities for the benefit of all Inuvialuit; and,
- To provide management oversight of the human, physical and financial resources of the Inuvialuit Corporate Group.



The goals, values and strategies of the Inuvialuit Final Agreement and the IRC provide a structure focusing their activities. The values and strategies convey how the Inuvialuit have interpreted the broad goals of the Inuvialuit Final Agreement with respect to the IRC's operational focus.

The IRC received \$152 million in cash compensation as part of their agreement. The funds were divided between various business ventures and an investment trust.

**Table 11: Inuvialuit Corporate Group Net Worth Snapshot (2011)**<sup>123</sup>

| Organization/Agency                | Initial Capital     | Current Value  |
|------------------------------------|---------------------|----------------|
| Inuvialuit Development Corporation | \$15 Million (1977) | \$209+ Million |
| Inuvialuit Investment Corporation  | \$114 Million       | \$311 Million  |
| Inuvialuit Social Development Fund | \$7 Million         | \$7 Million    |
| Inuvialuit Petroleum Corporation   | \$21 Million        | \$47 Million   |
| Inuvialuit Land Corporation        | --                  | \$33 Million   |
| Other                              | --                  | \$14 Million   |

**Table 12: Direct Benefits to Beneficiaries - \$17,425,000 for 2011**

| Organization/Agency   | Dollar Value | Status                                |
|---|--------------|---------------------------------------|
| Inuvialuit Development Corporation Group  | \$7,830,000  | Employees                             |
| Inuvik Gas Ltd  | \$420,000    | Employees                             |
| IRC, Inuvialuit Investment Corporation, Inuvialuit Land Corporation, Community Development Division                       | \$3,400,000  | Employees                             |
| IRC   | \$746,400    | Directors and Committee members       |
| Inuvialuit Education Foundation   | \$247,700    | Students                              |
| Inuvialuit Social Development Program   | \$157,900    | Elders                                |
| Inuvialuit Trust  | \$2,019,000  | Beneficiaries over 18 years           |
| Inuvialuit Harvesters Assistance Program  | \$212,000    | Land based harvesters                 |
| Community Corporations  | \$1,183,000  | Corporate administration costs        |
| Elders Assistance Program   | \$23,000     | Elders                                |
| Other: Donations, Funeral Assistance Program, Social Impact funds, Inuvialuit Communications Society, purchase of artwork | \$1,186,000  | Various organizations and individuals |

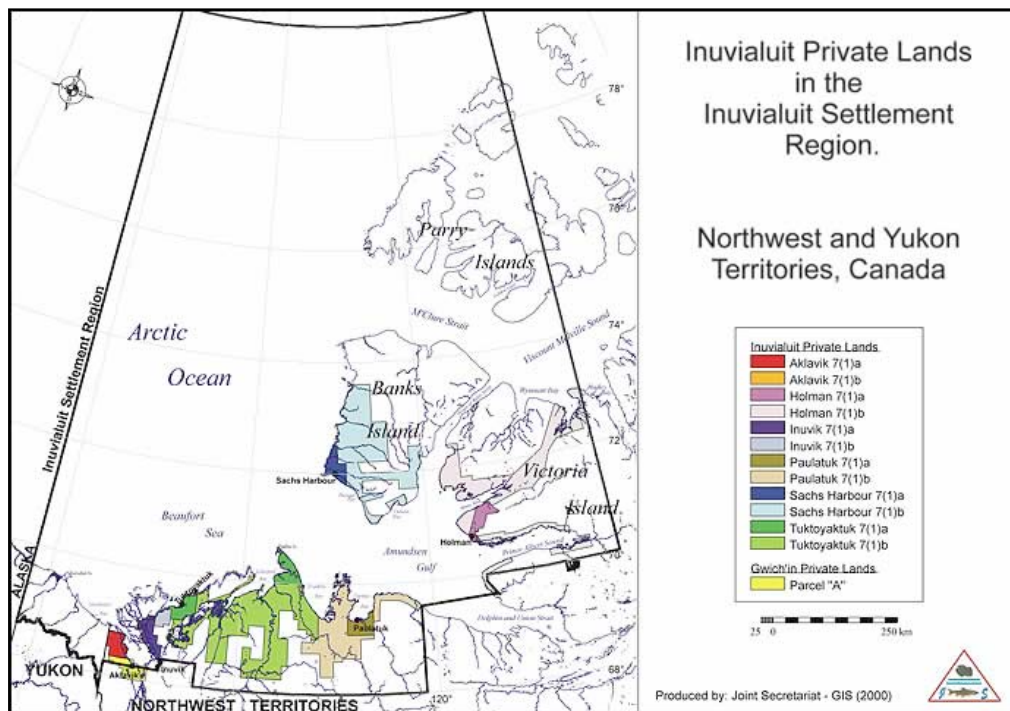
**Table 13: IRC Yearly Administration Costs (2011/12)**<sup>124</sup>

| Organization           | Amount       |
|------------------------|--------------|
| IRC                    | \$12,825,000 |
| Community Corporations | \$1,183,000  |

<sup>123</sup> Kinney 2011; Interview N-5, N-10

<sup>124</sup> Interview N-10; IRC Annual Report 2011/12: <http://www.irc.inuvialuit.com/publications/publications.html>

**Figure 22: Map of the Inuvialuit Settlement Region**



**Table 14: Socio-economic Snapshot of Inuvialuit Communities**

| Community     | Population (2010) | Employment Rate (2009) | Participation Rate (2009) | % Working 26+ Weeks in Previous Year (2009) | Average Employment Income (2008) | Households Consuming 50%+Harvested Meat/Fish (2008) |
|---------------|-------------------|------------------------|---------------------------|---|----------------------------------|---|
| Aklavik       | 658               | 36%                    | 53%                       | 53%   | \$29,109.38                      | 51%   |
| Inuvik        | 3552              | 71%                    | 79%                       | 78%   | \$52,123.19                      | 25%   |
| Paulatuk      | 336               | 47%                    | 55%                       | 54%   | \$25,700.00                      | 75%   |
| Sachs Harbour | 134               | 69%                    | 80%                       | 60%   | x                                | 62%   |
| Tuktoyaktuk   | 916               | 44%                    | 60%                       | 58%   | \$30,686.05                      | 63%   |
| Ulukhaktok    | 472               | 43%                    | 54%                       | 55%   | \$27,000.00                      | 63%   |

Source: NWT Bureau of Statistics; 'x' indicates a suppressed value. (Source: IRC 2012)<sup>125</sup>

<sup>125</sup> Inuvialuit Regional Corporation. 2012. *The Economic Life of Inuvialuit Households 2012 Paulatuk Study*. Inuvik: IRC Contact: B Simpson

## 9. Methodology

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This document is meant to measure progress of the IRC toward achieving the goals of the Inuvialuit Final Agreement. These goals are:

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

### 9.1 Evaluation Framework

An evaluation indicates a measurement against an established frame of reference. Currently, no such objective frame exists to measure progress toward the Inuvialuit Final Agreement goals. This is reasonable given the nature of the Inuvialuit Final Agreement goals as wide-ranging, inter-related, and ongoing. Instead, the state of progress toward realizing the Inuvialuit Final Agreement goals was undertaken. In particular, this investigation looks at how progress is being achieved by

- implementing the provisions of the Inuvialuit Final Agreement; and
- IRC operations guided by the IRC's key values and strategies, linked to the Inuvialuit Final Agreement goals.

This approach rests on the acknowledgement that the Inuvialuit Final Agreement represents a relationship between Canada and the Inuvialuit. The Inuvialuit Final Agreement goals are the vision of what the Inuvialuit Final Agreement's implementation should produce.

While some elements of the Inuvialuit Final Agreement contributing to realizing the Inuvialuit Final Agreement goals are discrete and contractual implementation activities, which can be completed by Treaty partners, "progress" toward the Inuvialuit Final Agreement goals is iterative, it is constantly produced and refined by Treaty partners working together. This is necessitated in part by the nature of a land claim agreement in recognizing existing and ongoing rights and obligations of Treaty partners. It is also necessitated in part by the wording of legal provisions, which have resulted in partners having to engage in respectful and ongoing dialogue and decision making about what provisions mean in practice and how provisions can be fulfilled, given the dynamic nature of the Inuvialuit-specific context.

What this report focuses on is not quantitative measures of achievements, although those are included as evidence supporting analysis. Instead, the report identifies the strengths supporting progress, and threats that undermine or slow progress toward Inuvialuit Final Agreement goals. This is accomplished by focusing on land, institutions, and socio-economic areas, in which the following are described:

- Strengths: perceived existing strengths among the partners and their relationship that is supporting progress; and,

- Threats: perceived issues and weaknesses that stand in the way of achieving progress.

The purpose is to provide Treaty partners with a deeper understanding of their relationship, their individual institutional approaches, and how, working in partnership, these contribute to or slow progress. It is up to the Treaty partners to determine how the finding will be incorporated into their actions as they continue to work together to implement the Inuvialuit Final Agreement.

## **9.2 Methodology**

The research for this evaluation was conducted between March 2013 and July 2013, and is based on the 17 questions identified by the original Matrix developed jointly between AANDC and IRC. The IRC was reluctant to devote too much staff time to research and interview participation, given that Canada has ignored recommendations of previous evaluations, despite IRC devoting significant staff resources to assist with those evaluations. The evaluation was conducted by Fox Consulting Ltd.

Interviews ranged from 25 minutes to 2.5 hours in length, and several follow up queries were made and addressed by interviewees. Individuals (N-1-11) working for both the IRC and Canada were interviewed. This method allowed for the production of ethnographic evidence, and corroborating issues arising out of lines of evidence emerging from the literature and the interviews. Interview questions were developed based on the evaluation matrix questions.

An extensive literature review of IRC internal documents, reports, and publications was conducted, in addition to academic literature relating to Inuvialuit and Canadian and international Indigenous co-management, institutional and governance capacity development, and economic development.

These various lines of evidence were brought together as the basis for the analysis. The analysis consisted of identifying recurring issues, themes or specific factors within the various lines of evidence, together with quantitative measures applicable to addressing the evaluation questions posed.

# **10. Ownership, Access to, and Managing Land and Resources**

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## **10.1 Alignment with Inuvialuit Final Agreement Goals**

The Inuvialuit Final Agreement co-management and land management system is aligned with the third goal of the Inuvialuit Final Agreement, namely:

- Protect and preserve the Arctic wildlife, environment and biological productivity.

In this section, the two questions under discussion are:

1. What initiatives are underway to manage the ownership of and access to lands and resources?
2. How do these initiatives contribute to the Inuvialuit Final Agreement goals?

Managing ownership of and access to lands and resources is a role mandated by the terms of the Inuvialuit Final Agreement, applicable government legislation and regulation and last not least, funding available to those organizations and agencies charged with these responsibilities.

Therefore, these questions are addressed by describing institutional structures, roles and responsibilities, and mandates of land and resource management organizations and agencies. The description also takes into account contextual factors impacting the ability of these entities to discharge their responsibilities meaningfully and effectively. From an IRC perspective, while questions one and two align with the third goal of the Inuvialuit Final Agreement, the organizations through their work also impact the other two goals of the Inuvialuit Final Agreement, namely:

- Preserve Inuvialuit cultural identity and values within a changing northern society; and
- Enable Inuvialuit to be equal and meaningful participants in the northern and national economy and society.

The following section describes the current land and resource management regime, then describes Strengths and Threats with respect to its effectiveness in contributing to achieving Inuvialuit Final Agreement goals.

### ***The Co-Management System***

Co-management is meant to promote cooperation between the IRC and Government with respect to shared control over land and resource management decision making. The co-management system in the Inuvialuit Settlement Region is distinct from the system used in the rest of the NWT, and is established through Chapters 7 through 15 of the Inuvialuit Final Agreement. Lands and waters in the Inuvialuit Settlement Region are managed and regulated by a combination of co-management, Inuvialuit, federal and territorial agencies and legislative instruments.

Co-management agencies include:

- Wildlife Management Advisory Committee (NWT)
- Wildlife Management Advisory Committee (North Slope)
- Fisheries Joint Management Committee
- Environmental Impact Screening Committee
- Environmental Impact Review Board

Inuvialuit agencies include:

- The Inuvialuit Joint Secretariat
- The Inuvialuit Game Council
- Inuvialuit Land Administration
- Hunters and Trappers Committees

Territorial agencies include:

- Environment and Natural Resources

Federal agencies:

- NWT Water Board
- Department of Fisheries and Oceans
- Department of Aboriginal Affairs and Northern Development
- Environment Canada

The federal government has jurisdiction over Crown lands and waters in the Inuvialuit Settlement Region. In addition, its legislation applies with respect to environmental assessments in the Inuvialuit Settlement Region, in conjunction with the statutory authority of the Environmental Impact Screening Committee and Environmental Impact Review Board. For example, in some situations, the National Energy Board and Canadian Environmental Assessment Agency and their respective legislation would govern environmental assessments, decision making and setting conditions for land uses.

**Table 15: Online Presence of Co-Management and Inuvialuit Land and Resource Management Institutions**

| <b>Agency</b>   | <b>Website</b>  |
|---|---|
| <b>Environmental Impact Screening Committee</b>         | <a href="http://www.screeningcommittee.ca/about/about.html">http://www.screeningcommittee.ca/about/about.html</a> |
| <b>Environmental Impact Review Board</b>                | <a href="http://www.eirb.ca/">http://www.eirb.ca/</a>   |
| <b>Joint Secretariat</b>                                | <a href="http://www.jointsecretariat.ca/">http://www.jointsecretariat.ca/</a>                                     |
| <b>Inuvialuit Game Council</b>                          | <a href="http://www.jointsecretariat.ca/igc.html">http://www.jointsecretariat.ca/igc.html</a>                     |
| <b>Inuvialuit Land Administration</b>                   | <a href="http://www.inuvialuitland.com">http://www.inuvialuitland.com</a>   |
| <b>Wildlife Management Advisory Council NWT</b>         | <a href="http://www.jointsecretariat.ca/wmacnwt.html">http://www.jointsecretariat.ca/wmacnwt.html</a>             |
| <b>Wildlife Management Advisory Council North Slope</b> | <a href="http://www.wmacns.ca/wmac/council/">http://www.wmacns.ca/wmac/council/</a>                               |
| <b>NWT Water Board</b>                                  | <a href="http://www.nwtwb.com/">http://www.nwtwb.com/</a>   |

### *The Land Administration System*

Through the Inuvialuit Final Agreement, Inuvialuit ownership and rights to and on lands are recognized. Inuvialuit lands are distinguished according to the provisions describing the rights within the Inuvialuit Final Agreement, commonly known as 7(1)(a) and 7(1)(b) lands. Established to administer the lands and provide mechanisms for their use and access is the Inuvialuit Land Administration, headquartered in Tuktoyaktuk. It consists of approximately seven technical and administrative staff. A seven - member Commission makes policy recommendations to the IRC to guide yearly and strategic decision making.

The Inuvialuit Final Agreement has established an effective system for land use permitting, using an on-line submission process, which includes review by technical staff, a process for consulting with communities and affected stakeholders, and facilitating clarifications by the applicant for stakeholder's benefit. Authorizations issued by the Inuvialuit Land Administration incorporate interests as expressed by stakeholders.

The Inuvialuit Land Administration is funded by IRC.

**Table 16: Inuvialuit Land Administration Activities 2009-2011<sup>126</sup>**

| <b>Activity</b>                     | <b>2009/10</b> | <b>2010-11</b> |
|-------------------------------------|----------------|----------------|
| <b>New Land Use Applications</b>    | 23             | 25             |
| <b>Renewals Granted</b>             | 48             | 34             |
| <b>Environmental Monitors Hired</b> | 11             | 6              |

### *Inuvialuit Land Administration*

The Inuvialuit Land Administration is the division of the Inuvialuit Regional Corporation responsible for managing and administering Inuvialuit-owned lands in the Inuvialuit Settlement Region. The Inuvialuit Settlement Region is the area of land and water subject to the land claims agreement known as the Inuvialuit Final Agreement, concluded between the Inuvialuit and the Government of Canada. The legislation implementing the Inuvialuit Final Agreement is the *Western Arctic (Inuvialuit) Claims Settlement Act*, 1984. The Inuvialuit are the Aboriginal people who have traditionally used the land within the Inuvialuit Settlement Region.

The Inuvialuit own a total of 35,000 square miles of land in the Inuvialuit Settlement Region. This includes both surface and subsurface rights to 5,000 sq. miles of land (referred to as 7(1)(a) lands) and surface rights (including rights to granular resources) to a further 30,000 sq. miles (referred to as 7(1)(b) lands). The remaining lands (as well as subsurface rights on 7(1)(b) lands) remain largely under the ownership and control of the federal Crown, with the exception of Hamlet lands which are controlled by the Government of Northwest Territories.

<sup>126</sup> Interview N-3; IRC Annual Report 2009: <http://www.irc.inuvialuit.com/publications/publications.html>

Access to Inuvialuit lands that is more than casual and individual in nature requires permission from the Inuvialuit. Accordingly, the Inuvialuit Land Administration issues Rights to access both the 7(1)(a) and 7(1)(b) lands.

The administration of rights on Crown Lands is largely the responsibility of various federal and territorial agencies with the Inuvialuit typically providing comment on applications.

### ***Literature Review***

Extensive literature on co-management in Canada has developed since the 1970s with significant elements of it drawing on the experience of the Inuvialuit and other Northern and Inuit land claim-based co-management organizations.<sup>127</sup> This literature has developed around institutional analysis, relating to the functionality of co-management regimes;<sup>128</sup> the role of co-management in resources decision making, relating to management of populations of wildlife;<sup>129</sup> and the role of co-management bodies in relation to resource extraction and human uses and impacts on lands, wildlife and resources.<sup>130</sup>

Additional “grey” or non-peer reviewed research-based literature has been generated by resource extraction project planning and associated environmental assessment and socio-economic planning processes.<sup>131</sup>

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<sup>127</sup> Scott, Colin. 2001. (ed.) *Aboriginal Autonomy and Development in Northern Quebec and Labrador*. Vancouver: UBC Press; Usher, Peter J. 1993. “The Beverly-Kamanuriak Caribou Management Board: An Experience in Co-Management”, in Julian T. Inglis, (Ed) *Traditional Ecological Knowledge Concepts and Cases*. Ottawa: Canadian Museum of Civilization; Berkes, F. and D. Armitage 2010. Co-management institutions, knowledge and learning: adapting to change in the Arctic. *Etudes/Inuit/Studies* 34: 109-131; Notzke, Claudia, 1995. “The Resource Co-Management Regime in the Inuvialuit Settlement Region” In *Northern Aboriginal Communities: Economies and Development*, ed. Peter Douglas Elias. Concord: Captus Press

<sup>128</sup> Armitage, Derek, Fikret Berkes, Aaron Dale, Erik Kocho-Schellenberg, Eva Patton, “Co-management and the co-production of knowledge: Learning to adapt in Canada's Arctic,” *Global Environmental Change*. Volume 21, Issue 3, August 2011, Pages 995–1004; Natcher, David, Davis, S. and Hickey, C., (2005) Co-management: managing relationships, not resources, *Human Organization* 64 (3) pp 240-250; Morrow, Phyllis and Chase Hensel. 1992. “Hidden Dissension: The Linguistic Negotiation of Minority-Majority Relationships.” *Arctic Anthropology*; White, Graham, 2002. “Treaty Federalism in Northern Canada: Aboriginal –Government Land Claims Boards.” *Publius: Journal of Federalism*. Vol. 32(3): 89-114.

<sup>129</sup> Berkes, Fikret and R.S. Pomeroy. “Two to tango: The role of government in fisheries co-management”, *Marine Policy*, Volume 21, Issue 5, September 1997, Pages 465–480; Usher, Peter J. 1993, “Northern Development, Impact Assessment and Social Change” in *Anthropology, Public Policy and Native Peoples in Canada*. Eds. James Waldram and Noel Dyck. Montreal: MQUP; Pinkerton, E. 1998. *Integrated Management of a Temperate Rainforest Ecosystem Through Wholistic Forestry: A British Columbia Example*. In Fikret Berkes and Carl Folke, eds. *Linking Social and Ecological Systems: Institutional Learning for Resilience*. Cambridge University Press, 363-389

<sup>130</sup> Armitage, et al 2011; Scott, Colin. 2001. (ed.) *Aboriginal Autonomy and Development in Northern Quebec and Labrador*. Vancouver: UBC Press.

<sup>131</sup> Kavik-Axys Inc., *Cumulative Effects Assessments in the Inuvialuit Settlement Region: Current and Potential Capability*. Inuvik, NT. January 2002; Inuvialuit Regional Corporation. Mackenzie Gas Impact Fund Regional Investment Plan. Version 6.8, September 2008



The literature focuses on various aspects of co-management within existing structures designed through land claim agreements – including such issues as decision making, power relations, institutional development, self-determination and self governance. The use of Inuvialuit co-management approaches and institutions as case studies is common throughout.<sup>132</sup> This is likely due in part to several factors:

- Established through the Inuvialuit Final Agreement (1984), the co-management system has been functioning for almost 30 years;
- The co-management regime is fully integrated within the Inuvialuit Settlement Region, and its jurisdiction extends only within the Inuvialuit Settlement Area (with the exception of jurisdictional overlaps into the Yukon), making it a solid candidate for researchers' focused case studies;
- Its responsibilities traverse management within a suite of contexts (human, wildlife, ecosystem, economic) at a variety of scales (local, regional, multi-jurisdictional) and may include a diversity of participants (animal, human, Inuvialuit, non-Indigenous, multi-national corporations) addressing distinct issues or projects (wildlife management, resource extraction, infrastructure development); and
- It is characterized by relatively sparse human populations dispersed among small villages and characterized by rural patterns of socio-economic development, significant biological diversity, and the presence of significant and often migratory wildlife populations essential to Indigenous subsistence livelihoods.

The literature indicates that, in addition to various issues arising from co-management that form a focus for ongoing institutional development and improvement,<sup>133</sup> some research has found evidence that the co-management system is having significant positive impacts resulting mainly from the involvement of land users and knowledge holders in decision making leading to management strategies co-produced by stakeholders.

For example, ongoing efforts to involve youth and local knowledge holders in research associated with land and wildlife management have resulted in outcomes fostering employment, education and cultural preservation, a research insight corroborated by interviewees.<sup>134</sup> Observers note that arising from a cooperative approach is a diffusion of knowledge and influence on decision making, which contributes to a system perceived as both effective and equitable with respect to power sharing. These insights are consistent with data gathered during stakeholder interviews.

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<sup>132</sup> Usher, Peter J. 1993, "Northern Development, Impact Assessment and Social Change" in *Anthropology, Public Policy and Native Peoples in Canada*. Eds. James Waldram and Noel Dyck. Montreal: MQUP; Usher, Peter J. 1993. "The Beverly-Kamanuriak Caribou Management Board: An Experience in Co-Management", in Julian T. Inglis, (Ed) *Traditional Ecological Knowledge Concepts and Cases*. Ottawa: Canadian Museum of Nature; White, Graham, 2002. "Treaty Federalism in Northern Canada: Aboriginal –Government Land Claims Boards." *Publius: Journal of Federalism*. Vol. 32(3): 89-114.

<sup>133</sup> Nadasdy, Paul. 2003. *Hunters and Bureaucrats: Power, Knowledge, and Aboriginal-State Relations in the Southwest Yukon*. Vancouver: University of British Columbia Press; Kavik-Axys Inc., *Cumulative Effects Assessments in the Inuvialuit Settlement Region: Current and Potential Capability*. Inuvik, NT. January 2002.

<sup>134</sup> Interview N-3; Kocho-Schellenberg, John Erik 2010. *Understanding the Evolution of Beluga Entrapment Co-Management in the Inuvialuit Settlement Region using Social Network Analysis*. MSc Thesis, Faculty of Graduate Studies. Winnipeg: University of Manitoba.

Another research and practitioner insight is that the mandates of co-management bodies are somewhat unclear due to definitional vagueness concerning responsibilities. One specific example, offered both in the literature and in interviews, is the issue of the Environmental Impact Screening Committee and the Environmental Impact Review Board being required to perform functions “expeditiously”; the boards are also left to determine criteria constituting “significant negative environmental effects”. This lack of direction leaves the boards vulnerable to stakeholder criticism and undue pressure at times of high volumes of work.<sup>135</sup>

## 10.2 Strengths

### *Longevity and Stability*

“Industry may know what our answers will be. They may not like our answers. But they know that they will get the same answer because our organizations are mature and stable. That reliability lowers their risks and raises their confidence.”<sup>136</sup>

All co-management bodies and the Inuvialuit Land Administration demonstrate a high level of policy and institutional maturity developed over the last thirty years. Sound governance structures, clear lines of communication, reporting and decision making, stable staff complements with defined roles and work plans, all have helped establish a system that is both capable and well-respected by stakeholders.

With respect to the Inuvialuit land management functions, it was noted that “leadership sets the tone” for their functioning, in terms of stability, consistency, transparency and accountability. This translates into greater currency in working with stakeholders such as communities, governments and industry. That currency derives from the trust generated by maintaining recognized professional standards demonstrated in the high quality of the work rendered by the institutions. This is supported by the IRC allowing the boards to undertake their work and respecting their institutional processes and outcomes.

### *Relationships*

The stability characterizing the land and co-management system of the Inuvialuit Settlement Region has fostered close relationships and trust among co-management partners, and between co-management institutions and stakeholders, particularly communities. These relationships have fostered capacity development among Inuvialuit beneficiaries. For example, the Inuvialuit Land Administration works closely with AANDC and the NWT Water board with respect to land and water use permitting on Crown lands. Being a well-respected organization translates into being able to draw on that reputation when establishing relationships and negotiating issues that may arise with stakeholders.

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<sup>135</sup> Kavik-Axys Inc., *Cumulative Effects Assessments in the Inuvialuit Settlement Region: Current and Potential Capability*. Inuvik, NT. January 2002.

<sup>136</sup> Interview N-3

### ***External Stakeholder Confidence***

Interviewees confirmed that the Inuvialuit Settlement Region is widely regarded as a “safe” place to do business (*e.g.* resource extraction) because of three factors: the co-management and regulatory system in the Inuvialuit Settlement Region has been functioning for almost thirty years and is known to be both stable and capable; the leadership is strong and consistent; and the decisions rendered are consistent and implemented. Predictability, capability and consistency have meant that the land and resource management organizations are well respected among stakeholders.

This is a situation that has developed over time. For example, it was not until the year 2000 that the Inuvialuit Land Administration, in a major institutional reform, restructured the mandate of the Inuvialuit Land Administration Commission to focus on policy development rather than permitting. Currently, permitting decisions rest with a technical staff complement charged with following the policy set by the Commission. Prior to this change, permitting decisions had been inconsistent and, as a result, the Inuvialuit Land Administration perceived as less stable and reliable than its institutional co-management counterparts. The policy set by the Commission has introduced a strategic approach to decision making as well as ensuring a greater level of transparency that has enhanced the organization’s credibility.

### ***Capacity Building, Youth Education and Employment***

Building Capacity has been a challenge with respect to technical staff – an issue common among many northern and geographically isolated organizations. However, the co-management system has provided greater opportunity for involvement of Inuvialuit and also for the organizations to support and foster capacity building, particularly among youth. Interviewees echoed insights noted in the academic and grey literature with respect to significant knowledge and capacity building among Inuvialuit adults and youth, technical staff and researchers, through mutual skill development and information exchange about Indigenous knowledge and scientific methods.

Mandated to research, monitor and provide technical analyses, the co-management system provides various opportunities for youth and Inuvialuit to be involved in conducting research studies, participating in research, and participating in workshops and conferences focusing on resource management issues. This creates employment in communities for Elders, adults and youth. It also has the effect of providing youth with work experience and knowledge gain of direct relevance to their cultural activities and values, and can serve as an important experience in contributing to both cultural and western educational goals and choices.

Various studies and strategies requiring community participation and providing employment to researchers, translators and administrative staff have been undertaken by the boards. It has been noted that such processes result in greater confidence of Inuvialuit in their own knowledge, their legitimacy in participating authoritatively in advising and decision making, and diffusing power throughout communities and communities of knowledge holders. Such strongly networked participation serves to both increase the legitimacy of the co-management boards themselves (*e.g.* residents feel included and part of the work of the organization), as well as diffuse the impacts of power imbalances inherent in the legislative mandates and institutional structures. For

example, final decisions remaining with a federal minister are not viewed as unpredictable when a stable and well respected organization, highly influenced by Inuvialuit, makes a decision recommendation based on well-researched conclusions.

**Table 17: Land and Resource Management Institution Strategies, Projects and Reports**

| <b>Organization</b>                                       | <b>Strategy/Research Report</b>  |
|---|--|
| <b>Inuvialuit Land Administration</b>                     | <a href="http://www.inuvialuitland.com/resources/Husky_Lakes_Special_Cultural_Area_Criteria.pdf">http://www.inuvialuitland.com/resources/Husky_Lakes_Special_Cultural_Area_Criteria.pdf</a>  |
| <b>Environmental Impact Screening Committee</b>           | Community Conservations Plans<br><a href="http://www.screeningcommittee.ca/resources/reports.html">http://www.screeningcommittee.ca/resources/reports.html</a><br>Cumulative Effects Assessment Guide<br><a href="http://www.screeningcommittee.ca/pdf/KA063_proponents.pdf">http://www.screeningcommittee.ca/pdf/KA063_proponents.pdf</a><br>Ten Year Harvest Study<br><a href="http://www.screeningcommittee.ca/resources/reports.html">http://www.screeningcommittee.ca/resources/reports.html</a>  |
| <b>Environmental Impact Review Board</b>                  | Environmental Impact Review Board Strategic Plan<br><a href="http://www.eirb.ca/resources/reports.html">http://www.eirb.ca/resources/reports.html</a><br>Environmental Impact Assessment Guidelines<br><a href="http://www.eirb.ca/resources/reports.html">http://www.eirb.ca/resources/reports.html</a><br>Involving Aboriginal Populations in Environmental Impact Assessment<br><a href="http://www.eirb.ca/resources/reports.html">http://www.eirb.ca/resources/reports.html</a><br>Memorandum of Understanding with Minister of Environment on Approvals for Substitution of Processes<br><a href="http://www.eirb.ca/pdf/substitution_of_process.pdf">http://www.eirb.ca/pdf/substitution_of_process.pdf</a> |
| <b>Fisheries Joint Management Committee</b>               | Harvest Studies, harvest monitoring, input into relevant legislative proposals. Annual reports can be accessed here: <a href="http://www.fjmc.ca/">http://www.fjmc.ca/</a>   |
| <b>Inuvialuit Game Council</b>                            | Reports on activities can be found here:<br><a href="http://www.jointsecretariat.ca/documents.html">http://www.jointsecretariat.ca/documents.html</a>  |
| <b>Wildlife Management Advisory Council – NWT</b>         | Reports on activities can be found here:<br><a href="http://www.jointsecretariat.ca/wmacnwt.html">http://www.jointsecretariat.ca/wmacnwt.html</a>  |
| <b>Wildlife Management Advisory Council – North Slope</b> | Information on projects, databases, and other information can be found here: <a href="http://www.wmacns.ca/resources/">http://www.wmacns.ca/resources/</a>   |
| <b>NWT Water Board</b>                                    | Strategic Plan<br><a href="http://www.nwtwb.com/Downloads/2010-2013_Strategic_Plan.pdf">http://www.nwtwb.com/Downloads/2010-2013_Strategic_Plan.pdf</a>  |
| <b>Inuvialuit Regional Corporation</b>                    | Database set up in cooperation with the Arctic Institute of North America for all research and publications relating to the Inuvialuit Inuvialuit Settlement Region Database <a href="http://www.aina.ucalgary.ca/isr/">http://www.aina.ucalgary.ca/isr/</a>   |
| <b>Other Initiatives of Relevance</b>                     | Arctic Borderlands Ecological Co-Op <a href="http://www.taiga.net/coop/">http://www.taiga.net/coop/</a><br>YESSA <a href="http://www.yesab.ca/index.html">http://www.yesab.ca/index.html</a><br>Porcupine Caribou Management Board<br><a href="http://www.taiga.net/pcmb/index.html">http://www.taiga.net/pcmb/index.html</a>  |

|  |  |
|--|--|
|  | Beaufort Regional Environmental Assessment<br><a href="http://www.beaufortrea.ca">http://www.beaufortrea.ca</a><br>Beaufort Sea Strategic Regional Plan of Action<br><a href="http://www.bsstrpa.ca/pdf/bsstrpa/BSStRPA%20RPA%20March2009.pdf">http://www.bsstrpa.ca/pdf/bsstrpa/BSStRPA%20RPA%20March2009.pdf</a> |
|--|--|

***Financial Independence of IRC***

“We are funded year to year, and AANDC is inconsistent with their funding approaches: levels of funding, ensuring that funding flows in a timely way. IRC can “carry us” [when funding does not flow in a timely way] because they have the financial ability to do that. In that very important sense IRC shoulders a significant burden to ensure stable and consistent land management in the Inuvialuit Settlement Region.”

In the next section, more detail is provided with respect to resource needs. With respect to ensuring stability and maintaining capacity, the IRC’s financial stability positions the Inuvialuit Land Administration to be able to ensure that Inuvialuit land management functions remain staffed and stable, effectively separating administrative and political issues from the day-to-day work of the organizations. This provides an important foundation for ensuring that all stakeholders view the Inuvialuit Settlement Region as well-managed and “safe” for conducting activities.

***Cultural Awareness***

The extensive involvement of Inuvialuit in the co-management boards as board members, staff and advisors on various projects, helps ensure that the institutions are permeated with cultural awareness and respect. The stability and results-based focus of the Inuvialuit and co-management structures reflect the practicality, cohesion, and collective approach to accomplishing tasks that is characteristic of Inuvialuit political and social culture. Cultural awareness manifests in various ways, including community consultation approaches (evidenced in the stakeholder consultation processes in place for application reviews), an (at least) yearly community-reporting tour in which all IRC departments and organizations take part, the use of Inuvialuit traditional and local knowledge in application review processes, research projects, and in policy making. Cultural awareness has not been hived off to one institution or individual. Rather, it is diffuse, ongoing and organic, directly resulting from populating both staff and decision makers with Inuvialuit.

Evidence of this attention to cultural awareness, particularly with respect to educating non-Inuvialuit in positions of decision-making power, can be found in the consistent focus on culture over the years in all co-management institutions with respect to research such as harvest studies, community consultations on policy development, and research and monitoring practices.

## 10.3 Threats

### *AANDC Funding*

Canada funds the co-management boards and does so according to its own policies, which do not necessarily bear any relation to the needs of the boards with respect to mandates or external pressures which may be placed upon them. This is a long-standing concern among resource management boards across the NWT.<sup>137</sup>

While the IRC is in a position to financially “carry” its own administrative bodies responsible for land management when there are breaks in funding flows, it does so at a cost. The amounts devoted to “carrying” institutions could be deployed elsewhere, along with the administrative resources involved in that process and in the recovery of funds once external funding is in place.

Funding has been reduced in recent years, impacting the ability of boards to maintain a stable technical staff complement and, in turn, to complete tasks in a timely way. For example, where land management agencies may require expertise for researching best practices in evaluating an application for a resource developer and cannot afford to maintain an expert on staff, delays may occur in application review and approval because staff lack in-depth subject matter expertise and must spend significant time researching and understanding best practices in order to make an informed evaluation.<sup>138</sup>

### *Coherence and Complexity*

“We hear complaints about how complicated Northern regulatory systems have become. Much of the complexity comes from the requirements of the legislation and institutions, mainly federal, that are layered on top of those of the Inuvialuit Settlement Region, which were not designed to be coordinated with each other...in the Inuvialuit Settlement Region we have spent 20 years putting our system in place and making it work. This has resulted in strong partnerships and coordination among Inuvialuit, government and industry.”<sup>139</sup>

The co-management system has developed a high-functioning and effective set of institutions. Application and review processes have been standardized across all organizations and many of these include online application and information access. Transparency and accountability are further maintained through Annual or Term Reports detailing activities and authorization/permitting statistics are issued annually or at designated intervals by each

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<sup>137</sup> Inuvialuit Regional Corporation. 2003. *Implementing Economic Measures of the Inuvialuit Final Agreement: A Report Card and New Direction. A Report to the Minister, Indian and Northern Affairs Canada, Government of Canada and the Minister of Aboriginal Affairs Government of the Northwest Territories, and the Minister of the Executive Council, Government of the Yukon: Mackenzie Valley Land and Water Board, May 2011* “Perspectives on Regulatory Improvements in the Mackenzie Valley”. Yellowknife: as accessed at <http://mvlwb.com/content/perspectives-regulatory-improvement-mackenzie-valley>

<sup>138</sup> Interview N-3

<sup>139</sup> Cournoyea, Nellie, 2009. “Navigating and Managing Economic, Environmental and Social Change in the Inuvialuit Settlement Region” in *Northern Exposure: Peoples, Powers and Prospects in Canada’s North*. Eds. Frances Abele *et al* Montréal : IRPP.

co-management board. Inuvialuit organizations issue their own annual reporting or are included in the IRC Annual Report.

In addition to the co-management system in the Inuvialuit Settlement Region, there are various federal laws and agencies that overlay that system, triggered by various factors. For example, the *Canadian Environmental Assessment Act* applies in the Inuvialuit Settlement Region. To avoid the possibility of having an Environmental Impact Review Board review and a *Canadian Environmental Assessment Act* review being conducted simultaneously, the Minister of the Environment has established a Memorandum of Understanding with the Environmental Impact Review Board to use the Environmental Impact Review Board's process for reviewing projects in the Inuvialuit Settlement Region, rather than duplicating the process by also establishing a federal *Canadian Environmental Assessment Act* Review Panel. This has streamlined the review process for all stakeholders. The Memorandum of Understanding, reached in 1999, pre-dated a similar approach to an environmental assessment of the Mackenzie Gas Project, which combined various assessment requirements into a single Joint Review Panel process.

In other instances, using existing processes as substitutions has not been consistent. Currently, the IRC is in ongoing discussions with AANDC's Oil and Gas Directorate about guidelines being developed for reaching Community Cooperative Benefit Agreements under the *Canadian Oil and Gas Act* with respect to offshore activities in the Inuvialuit Settlement Region. As the sole land claim organization stakeholder, the Inuvialuit Settlement Region has not been included in drafting or reviewing guidelines. For the onshore, Canada had always accepted the Community Benefit Agreements negotiated by the IRC under the Inuvialuit Final Agreement as conforming to Canada's legislative requirements for Community Cooperative Benefit Agreements. The current situation threatens to result in an additional time consuming process the IRC must engage in to realize Inuvialuit Final Agreement benefits that will be obtained in accordance with guidelines that the IRC had no meaningful involvement in developing.

One final issue relating to incoherence is the ongoing legislative changes to environmental and related laws through the use of omnibus bills in Parliament by the Government of Canada. The "regulatory improvement" initiative takes an omnibus approach, effectively obscuring understanding of how affected bills will impact stakeholders and how individual pieces of legislation will be changed. In turn, this obscures understanding how the various changes will interrelate in practice. This results in a lack of ability to understand implications, and consequently re-think them or plan for their impacts. Changes have resulted in, for example, restricting the ability of federal departments and agencies to undertake aspects of environmental assessments. One example is the recent federal legislative changes to the *Fisheries Act* on fish habitat, which may result in the Fisheries Joint Management Committee conducting assessments of project impacts on fisheries. While the Department of Fisheries and Oceans is far better positioned and staffed to do the work, its statutory authority has been removed; this puts additional strain on shrinking co-management board resources.

### ***Legislative Change and Devolution***

The NWT Devolution agreement will come into effect in 2014, requiring the negotiation of arrangements for offshore resource management, the development of a territorial resource management committee, a waste sites management committee, and other transfers of land management authorities from Canada to the Government of Northwest Territories (GNWT).

There is concern that the GNWT lacks the policy maturity or the institutional ability capable of carrying out these technically complex and politically sensitive tasks. There is concern that there will be a period of capacity building for the GNWT to establish its institutional capabilities, and that it may not have been sufficiently resourced to do so. This will have impacts on a developing relationship between the Inuvialuit and GNWT decision makers and also with respect to ensuring the integrity and effectiveness of the co-management system.

### ***Timely Appointment of Co-Management Board Members***

Long standing concerns about the federal appointment process with respect to co-management boards and the impact on the board's functionality and stability are well-documented with respect to co-management generally in the NWT.<sup>140</sup> Unfilled appointments compromise the boards' abilities to function effectively according to mandates and in contributing to Inuvialuit Final Agreement goals. Resolution of this issue lies with Canada, which currently lacks an effective and timely mechanism for fulfilling this land claim obligation.

### ***High Costs, Capacity and Capacity Building***

“It is illegal for us to unreasonably refuse access to lands in the IS. We have to get the job done with what resources we have, bottom line.”<sup>141</sup>

Interviewees noted the high cost and high turnover of technical staff, who are almost exclusively from outside of the Inuvialuit Settlement Region. This was described as a situation where a small organization such as the IRC, with satellite offices in very small isolated communities, has difficulty competing with both benefit packages and national or territorial job security mobility as offered by the federal and territorial governments. While industry may be able to hire specialist professionals as full time staff and federal departments may possess a large professional staff complement, the land and resource management boards simply cannot offer comparable incentives with respect to benefits and job mobility. Nor do they have resources to retain large complements of technical staff. Given resource restrictions related to funding, it can become very difficult to recruit and retain staff, particularly in the smaller communities.

The same issues affect skilled beneficiaries, who, if they must leave their home communities, generally will prefer to relocate within the region to a larger centre such as Inuvik, which offers greater economic, employment and educational opportunities for family members.

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<sup>140</sup> Interview N-1; MVLWB 2011

<sup>141</sup> Interview N-2.



Having adequate resources to attract and retain staff is not only about salaries, benefits and mobility, but also about the stability and effectiveness of the organization. While the Inuvialuit Joint Secretariat model attempts to mitigate these issues, consistent funding reductions undermine its efforts. To attract and retain skilled staff, the workload must be manageable and the entire staff functioning well and at industry standards. Issues relating to funding inadequacy, jurisdictional and institutional incoherence of key partners, and resource strain do not create an attractive work environment for potential recruits. In addition, organizations have noted a two to three year turnover period for most skilled technical staff. This represents a drain on institutional memory and increases the reliance on stable, policy-driven practice. It also underscores the need to increase the educational opportunities for and achievement of Inuvialuit beneficiaries, who are more likely to remain in the region for longer periods.

### ***Demand Unpredictability***

Interviewees noted that the work of the land and resource management institutions was driven largely by demand. During high-demand periods, staff may be overly-taxed and then experience periods of greatly reduced activity. While organizations may not be able to anticipate boom-bust periods or their magnitude, they are positioned to develop flexible approaches to addressing issues specific to boom-bust demands and prepare accordingly.

These demands also strain resources that may not be able to accommodate demands and therefore affect the timelines of co-management and regulatory approval decision making. This situation generally is due in no small part to the issue of resources and funding availability, which is dependent on federal policy. That policy may bear no relation to or be unable to effectively accommodate demand unpredictability.

While the IRC and Canada have worked in partnership conducting research to forecast Beaufort Sea future development and the attendant impacts, the situation requires ongoing monitoring to anticipate actual needs.

## **10.4 Summary**

One of the IRC's strengths is its institutional stability, which is well recognized by governments and industry. This underpins the stability of its participation in the co-management regime, along with its own land management. It also is a strong element of what positions the IRC as a credible and equal partner with governments and industry in relation to land management decision making. Obstacles in the way of progress toward effective land management and administration are outside of IRC's control and require the IRC to put resources into strategizing, negotiating and mitigating these obstacles. In some respects, this is simply part of its organizational mandate; however, in other respects, it requires the expenditure of resources better spent elsewhere.

# 11. Cultural Vitality

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## 11.1 Cultural Vitality Assessment

This section seeks to answer the following questions:

- What initiatives are underway to promote land connection activities contributing to well-being?
- What initiatives are underway to support land based cultural vitality?

Cultural initiatives of the IRC and its organizations and agencies are aligned with the second goal of the Inuvialuit Final Agreement:

- Preserve Inuvialuit cultural identity and values within a changing northern society.

Inuvialuit culture comes from a land-based way of life, and an ongoing connection to the land, to place, and to social, family and ecological relationships mediated in part by the relationship to the land: the very activities of being on the land create and affirm relationship. As the following section illustrates, the IRC has taken a diffuse and organic approach to incorporating efforts toward achieving this goal throughout its operations and activities. With an exclusively Inuvialuit Board of Directors, which makes all policy decisions and sets strategic direction for the IRC, Inuvialuit cultural perspectives pervade policy and decision-making processes.

However, the IRC has also made specific efforts to support cultural initiatives through direct financial support, partnerships with external organizations, and incorporating culturally relevant criteria into policy processes. The co-management and land management institutions are based on a mandate of shared decision-making ensuring that land-based knowledge holders participate meaningfully in policy development and decision making.

Two recognized institutions that focus specifically on cultural preservation, promotion and development are the Inuvialuit Cultural Resource Centre and the Inuvialuit Communications Society. Both institutions are at arms-length from the IRC (the Inuvialuit Cultural Resource Centre is part of IRC programming, while the Inuvialuit Communications Society is an independent organization, registered as a society in the NWT), however, both contribute explicitly to the goals of the Inuvialuit Final Agreement with respect to promoting Inuvialuit cultural identity. Both also receive administrative and/or financial support from the IRC as well as the IRC's institutional support and endorsement helpful for achieving strategic objectives. There are in addition high-profile cultural initiatives that are activity rather than institution-oriented. These include the Inuvialuit Drummers and Dancers, hunting, fishing and whaling activities undertaken by individuals and families that benefit the broader community, and individual community initiatives. While these are separate from the IRC, they are often supported financially by the IRC and asked by the IRC to participate in events and activities of political, cultural and social significance.

Culturally, the Inuvialuit are known as pragmatic, practical and self-reliant. Therefore, the IRC's approach to cultural promotion in and of itself is appropriate with respect to the nature of cultural promotion and preservation, and with the inescapable truth that cultural strength and vitality at their core rest with individual Inuvialuit. This is because 'culture' broadly understood encompasses the values, beliefs, spiritual and social norms of a people specific to place and way of life. Culture is not static, but responsive and adaptable to changing circumstances. The role of the IRC has been to empower arms-length organizations whose mandate requires assembling cultural knowledge experts to carry out their tasks in a way that is responsive to the reality of cultural fluidity. As a result, a diversity of cultural initiatives flourish, ranging from a technology-savvy Inuvialuit language iPhone application that is likely to gain popularity with youth, to the world-famous Drummers and Dancers, whose performances constantly assert and re-affirm Inuvialuit land-based culture and spirituality through songs handed down across the generations and others developed as a result of present day land-based experiences.

**Table 18: Cultural and Land Connection Initiatives: Snapshot**

| Organization   | Initiative   |
|--|--|
| <b>IRC</b>   | Ongoing financial support to Community Drummers and Dancers<br>IRC Craft Shop<br>Inuvialuit Socio-economic Indicators website <a href="http://inuvialuitindicators.com/">http://inuvialuitindicators.com/</a><br>Beaufort Regional Environmental Assessment Social Indicators Working Group<br><a href="http://www.beaufortrea.ca/wp-content/uploads/2013/03/3.5-B-Simpson-Social-Cultural-and-Economic-WG.pdf">http://www.beaufortrea.ca/wp-content/uploads/2013/03/3.5-B-Simpson-Social-Cultural-and-Economic-WG.pdf</a>   |
| <b>IRC/GNWT</b>  | Hunters and Trappers Assistance Program  |
| <b>IRC/ Community Wellness Division</b>  | Regional Wellness Strategy   |
| <b>Inuvialuit Cultural Resource Centre (Est. 1998)</b>                         | Language Strategy<br>iPhone Downloadable Inuvialuktun Language App<br>Production of teaching and learning resources:<br><a href="http://www.irc.inuvialuit.com/community/cultural.html">http://www.irc.inuvialuit.com/community/cultural.html</a><br>Cultural Resource Officer – Uluhaktok<br>Taimani: Inuvialuit Timeline Project <a href="http://issuu.com/itvg/docs/taimani">http://issuu.com/itvg/docs/taimani</a><br>Inuvialuit Living History Website<br><a href="http://www.inuvialuitlivinghistory.ca/wiki_pages/Place%20Names">http://www.inuvialuitlivinghistory.ca/wiki_pages/Place%20Names</a> |
| <b>IRC/ Education, Culture and Employment Beaufort Delta Education Council</b> | Partnership with Beaufort Delta Education Council to institute Inuvialuktun language curriculum in schools<br>High School Inuvialuit studies course<br>Prince of Wales Northern Heritage Centre – collections and displays   |
| <b>IRC/Smithsonian Institution, USA</b>  | Cultural inventory of collection of 300 cultural artifacts and over 5000 natural history specimens from the Anderson river area, circa 1860s.<br><a href="http://www.irc.inuvialuit.com/publications/pdf/Inuvialuit%20SmithsonianSupport">http://www.irc.inuvialuit.com/publications/pdf/Inuvialuit%20SmithsonianSupport</a>   |
| <b>Inuvialuit Development Corporation</b>                                      | Has supported initiative such as land based Outward Bound youth summer courses<br><a href="http://lin.ca/success-story-details/22928">http://lin.ca/success-story-details/22928</a> ; corporate sponsorship support to various social, youth and cultural initiatives in the Inuvialuit Settlement Region<br>NorTerra Group – Youth Strategy   |
| <b>Community</b>   | Annual musk ox harvest in Sachs Harbour  |

|  |   |
|--|---|
| <b>Economic Development Organization</b> | <a href="http://www.youtube.com/watch?v=jAbS59t5X7g">http://www.youtube.com/watch?v=jAbS59t5X7g</a>   |
| <b>Co-Management Boards</b>              | <p>Various traditional knowledge studies relating to land and wildlife management.</p> <p>Environmental Impact Screening Committee 1997 Harvest Study Report<br/> <a href="http://www.screeningcommittee.ca/pdf/harvest_study.pdf">http://www.screeningcommittee.ca/pdf/harvest_study.pdf</a></p> <p>Fisheries Joint Management Committee Reports<br/> <a href="http://www.jointsecretariat.ca/documents.html">http://www.jointsecretariat.ca/documents.html</a></p> <p>Beaufort Sea Partnership <a href="http://www.beaufortseapartnership.ca/contacts.html">http://www.beaufortseapartnership.ca/contacts.html</a></p> <p>Inuvialuit Game Council<br/> <a href="http://www.irc.inuvialuit.com/beneficiaries/pdf/Inuvialuit%20Game%20Council.pdf">http://www.irc.inuvialuit.com/beneficiaries/pdf/Inuvialuit%20Game%20Council.pdf</a></p> <p>Community Knowledge of various wildlife species – Wildlife Management Advisory Council- North Slope <a href="http://www.wmacns.ca/resources/publications/">http://www.wmacns.ca/resources/publications/</a></p> |

### *Literature Review*

The importance of cultural vitality to social<sup>142</sup> health<sup>143</sup> and economic<sup>144</sup> wellness in Indigenous communities is well-established, according to the academic literature. Particularly for communities that have experienced the traumatic events that took place in residential schools as well as the intergenerational impacts of those events together with other and ongoing experiences, cultural vitality is a lifeline. Colonial policy directed towards Indigenous peoples has since its introduction specifically targeted Indigenous culture and connection to lands. This assimilative agenda was intended to disconnect Indigenous peoples from their culture and

<sup>142</sup> Kirmayer, Laurence, and Gail Valaskakis (eds). 2009. *Healing Traditions: The Mental Health of Aboriginal Peoples in Canada*. Vancouver: UBC Press; Samson, Colin, “A Colonial Double-Bind: Social and historical Contexts of Innu Mental Health”, in Kirmayer, Laurence, and Gail Valaskakis (eds). 2009. *Healing Traditions: The Mental Health of Aboriginal Peoples in Canada*. Vancouver: UBC Press. P 109-139.

<sup>142</sup> Samson, Colin, “A Colonial Double-Bind: Social and historical Contexts of Innu Mental Health”, in Kirmayer, Laurence, and Gail Valaskakis (eds). 2009. *Healing Traditions: The Mental Health of Aboriginal Peoples in Canada*. Vancouver: UBC Press. P 109-139; Irlbacher-Fox, Stephanie, 2009. *Finding Dahshaa: Self Government, Social Suffering and Aboriginal Policy in Canada*. Vancouver: UBC Press.

<sup>143</sup> Waldram, James, Herring D.A. and Young, K. 2006. *Aboriginal Health in Canada: Historical, Cultural, and Epidemiological Perspectives*. Toronto: University of Toronto Press. Kirmayer, Laurence, and Gail Valaskakis (eds). 2009. *Healing Traditions: The Mental Health of Aboriginal Peoples in Canada*. Vancouver: UBC Press. Kirmayer, L. Tait, C. and Simpson, C. “The Mental Health of Aboriginal Peoples in Canada: Transformations of Identity and Community” in Kirmayer, Laurence, and Gail Valaskakis (eds). 2009. *Healing Traditions: The Mental Health of Aboriginal Peoples in Canada*. Vancouver: UBC Press. P 3-35. Waldram, James. “Culture and Aboriginality in the Study of Mental Health” in Kirmayer, Laurence, and Gail Valaskakis (eds). 2009. *Healing Traditions: The Mental Health of Aboriginal Peoples in Canada*. Vancouver: UBC Press. P 56-79; Kirmayer, L, Fletcher C., and Watt, R. “Locating the Ecocentric Self: Inuit Concepts of Mental Health and Wellness” in Kirmayer, Laurence, and Gail Valaskakis (eds). 2009. *Healing Traditions: The Mental Health of Aboriginal Peoples in Canada*. Vancouver: UBC Press. P 289-314.

<sup>144</sup> Government of the Northwest Territories: Senate Committee on Aboriginal Peoples, 2006. *Final Report: Special Study on the involvement of Aboriginal communities and businesses in economic development activities in Canada*. Ottawa: Parliament of Canada; Cornell, S. and Kalt, J., 1989. “Pathways from Poverty: Development and institution building on American Indian reservations”, Harvard Project on American Indian Economic Development, PRS89-5, Cambridge, MA: JFK School of Government.

remove them from their lands as a precursor to colonial and capitalist possession of the lands and resources (Alfred 2005; Irlbacher-Fox 2009).<sup>145</sup>

Colonial policy in its many forms is at the root of what can reasonably be described as a mental health crisis in Indigenous communities. According to Mohawk scholar Taiaiake Alfred:

Social suffering, unresolved psychophysical harms of historical trauma and cultural dislocation are identified as the main sources of a crisis in which First Nations' opportunities for self-sufficient, healthy and autonomous lives on individual and collective levels are extremely limited because Indigenous peoples have developed complexes of behaviour and mental attitudes that reflect their colonial situation.<sup>146</sup>

Alfred and other Indigenous and non-Indigenous researchers studying the situation of Indigenous peoples' mental health are unanimous in recommending culturally-based solutions from within Indigenous communities to heal and change this situation by "preserving the crucial linkages between people, and between people and the land, that can sustain and even recreate strong and healthy Indigenous identities and ways of living in the world."<sup>147</sup>

Many Inuvialuit reject being labeled as "colonized" and there is an important distinction between "being colonized" and being impacted by colonial policy. Few Inuvialuit would say that government colonial policies have been positive; all have experience of how their lives have been negatively impacted by colonial policy.

With respect to the disruption of the relationship between Inuvialuit and their lands, the IRC makes significant efforts to promote that relationship. The IRC's own research found that in small, isolated, economically challenged communities such as Paulatuk, subsistence hunting is critical to providing for nutritional needs while at the same time supporting social and individual wellness.<sup>148</sup> The economic situation is such that the land-based cultural value of sharing and reciprocity is a crucial protective factor for ensuring food security for many in the community.

The Inuvialuit have been following a culturally rooted path toward achieving social, health and economic wellness as evidenced by the extent of IRC's culturally-oriented efforts and activities, and the cultural institutions vital to providing a solid basis for Inuvialuit to follow that path. They also provide a solid basis for the IRC to mold its own business approaches, programming, and staff expectations to support and promote Inuvialuit culture.

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<sup>145</sup> Alfred, Taiaiake, 2005. *Wasase: Indigenous Pathways of Action and Freedom*. Toronto: Broadview; Irlbacher-Fox, Stephanie, 2009. *Finding Dahshaa: Self Government, Social Suffering and Aboriginal Policy in Canada*. Vancouver: UBC Press.

<sup>146</sup> Alfred, Taiaiake. 2009. *Colonialism and State Dependency*. Paper prepared for the Communities in Crisis Project, Aboriginal Healing Foundation. Tanner 2009

<sup>147</sup> Alfred, Taiaiake. 2009. *Colonialism and State Dependency*. Paper prepared for the Communities in Crisis Project, Aboriginal healing Foundation.

[http://web.uvic.ca/igov/uploads/pdf/Colonialism%20and%20State%20Dependency%20NAHO%20\(Alfred\).pdf](http://web.uvic.ca/igov/uploads/pdf/Colonialism%20and%20State%20Dependency%20NAHO%20(Alfred).pdf);

Tanner, Adrian 2009 "The Origins of Northern Aboriginal Social Pathologies and the Quebec Cree Healing Movement" in Kirmayer, Laurence, and Gail Valaskakis (eds). 2009 *Healing Traditions: The Mental Health of Aboriginal Peoples in Canada*. Vancouver: UBC Press. P 249-271

<sup>148</sup> Inuvialuit Regional Corporation. 2011. *Keynote Presentation: Aboriginal Private Equity Summit Toronto, Canada March 03, 2011*.

## 11.2 Strengths

### *Diversity*

The IRC supports a diversity of cultural initiatives. Generally, these span various categories including:

- *Active cultural practice:* Hunters and Trappers Assistance Program; Take a Kid Trapping Program; language resources development (books in Inuvialuktun dialects, iPhone App), financial support to Drummers and Dancers; language curriculum development and teacher training. The IRC also provides support to individuals and groups to engage in cultural and land-based activities;
- *Research:* Participation in research projects inclusive of Inuvialuit cultural and social perspectives, traditional knowledge and harvest studies, in heritage preservation and promotion in partnerships with museums and researchers internationally;
- *Support for the subsistence economy:* The IRC Craft Shop provides traditional artisans with a sales and promotional outlet for their work; the Inuvialuit Community Economic Development Organization supported the muskox harvest that provides income locally while producing raw materials (hides, muskox hair used as wool) to traditional artisans; financial support to hunters and trappers through the Harvesters Assistance Program allows for the development of the ongoing land connection critical to making informed land and resources management decisions.
- *Social programming:* The Community Development Division, Inuvialuit Cultural Resource Centre and social policy research efforts within IRC, financial and institutional support of active individual and group-based cultural practices, and support for subsistence harvesters, contribute to building a pool of cultural experience and knowledge that can be drawn upon for incorporation into social, employment, and economic development programming throughout the Inuvialuit Settlement Region.

### *Diffusion*

Each program area of IRC contributes to achieving the Inuvialuit Final Agreement goals. The goals are highly interrelated and initiatives undertaken to achieve each of the goals contributes to building capacities that are both transferable and relevant to capacity needed in pursuit of other goals. That many IRC employees and decision makers are Inuvialuit further entrenches a corporate ethos rooted in cultural and community knowledge. Thus, the diffuse and omniscient presence of Inuvialuit cultural practices and norms means that culture is incorporated into programming as a matter of course rather than added on or as an afterthought.

## ***Research***

The Inuvialuit have conducted extensive cultural research through the Inuvialuit Cultural Resources Centre, formal partnerships with research institutions such as museums and universities, and with individual researchers in partnership with Inuvialuit communities. Results of this work include a robust suite of cultural teaching and learning resources produced by the Inuvialuit Cultural Resource Centre and the IRC suitable for use in the primary and secondary education system. Partnerships with museums such as the Canadian Museum of Civilization and the Smithsonian Institute have resulted in books, web sites, and databases of cultural resources accessible by the general public and as part of school curricula. Individual university researchers or consortia have published research findings on issues as diverse as how culture impacts economic and social policy, educational attainment, health issues, and environmental and land-based knowledge.

The IRC has a Research Policy in place, which sets out clear expectations and processes with respect to how research is undertaken in the Inuvialuit Settlement Region.

## ***Accessibility***

Cultural resources, in particular those coming from research, are highly accessible with many located on the web sites of the institutions that originated the research (see Table 8).

For funding supports, individuals and communities can access opportunities by applying through well-established processes, for example, the Hunters and Trappers Support program applications, and for donations through the IRC. There are various external funding opportunities that support cultural initiatives.

## ***Partnership and Collaboration***

Many of the cultural projects have involved leveraging partnerships with external organizations. For example, the Inuvialuit Cultural Resource Centre's operations are supported by contribution agreements with both Canada and the GNWT. Partnerships with museums allow museums such as the Prince of Wales Northern Heritage Centre and the Smithsonian to provide expert artifact interpretation while affording the IRC an opportunity to instruct them on respectful approaches to maintaining Inuvialuit artifacts, such as in specialized repositories with professional curatorial services - physical infrastructure that the Inuvialuit currently do not possess.

Partnerships are important to building capacity within institutions and within the region in relation to understanding the importance and the methods or techniques (technological and social) of cultural development and preservation. These initiatives provide staff and cultural knowledge holders with experience in working with external institutions and learning about similar issues and initiatives among other Indigenous peoples. This increases institutional and individual confidence in directing partnerships toward achieving Inuvialuit goals. It also increases the potential for influencing the overall goals of the partnership into alignment with the long-term strategic goals of the IRC in cultural promotion and retention.

## 11.3 Threats

### *Language Retention Levels*

**Table 19: Inuvialuktun Language Retention**

|                              | 1989 | 1994 | 2004 | 2009 |
|------------------------------|------|------|------|------|
| <b>Inuvialuktun Speakers</b> | 511  | 475  | 456  | 483  |

The Inuvialuit Cultural Resource Centre was set up in 1996 at around the time that Inuvialuktun language loss had reached a low point. The Inuvialuit Cultural Resource Centre’s mandate is to support language development, retention and promotion initiatives. Significant efforts have been made to provide language instruction and support in the region’s schools, in particular through supporting Inuvialuktun language programs offered through the region’s primary schools. A new downloadable iPhone Application has been developed in the hope that the ease of technology will promote its use by Inuvialuit youth and children.

One of the difficulties identified in promoting language in the region’s schools is the lack of training opportunities for teachers. In addition, there is no monitoring or enforcement mechanism in place to ensure language instruction is made available to students or the quality of language instruction. The Inuvialuit Cultural Resource Centre has determined that promoting language learning among children as part of their regular curriculum is one of the best ways to ensure the language will not be lost and exerts great efforts to support this approach. However, supportive schools and supportive parents are essential to ensuring children’s learning is supported and valued.

### *Unstable Institutional Funding*

While collaborations and partnerships with external agencies are a strength of the IRC’s approach, they are also a source of instability. Although many partnerships are long standing, they are often tied to government programs funded year-to-year, requiring a yearly proposal to access funds. This creates significant uncertainty and instability, particularly for programs that gain in significance and impact as a result of the cumulative or ongoing nature of their work.

For example, the Inuvialuit Cultural Resource Centre has been developing progressively sophisticated and diverse language resources to serve the region. The Centre’s institutional experience, corporate reputation and stability is one of the sources of “capital” which contributes to its ability to work with various external agencies. The Centre was established in 1996 with funding from the GNWT under the Official Languages Agreement with Canada and from Canadian Heritage. The Centre’s funding has been cut back in the last few years and without multi-year funding agreements the institution is always at risk. Moreover, by having to access funding through proposal-driven processes, the Centre’s mandate is shaped by requirements that may not have a bearing on regional needs and may demand attention to areas other than those the Inuvialuit Cultural Resource Centre deems most important.



### ***Social and Economic Instability and Hardship***

Programs focused on cultural development and revitalization have, as a basic requirement, participation of individuals. In a context of significant social suffering manifesting as low employment, low educational attainment, social issues, etc., the ability of individuals to engage in cultural development initiatives, whether through specific programming or integrated into various programs and services, is limited.

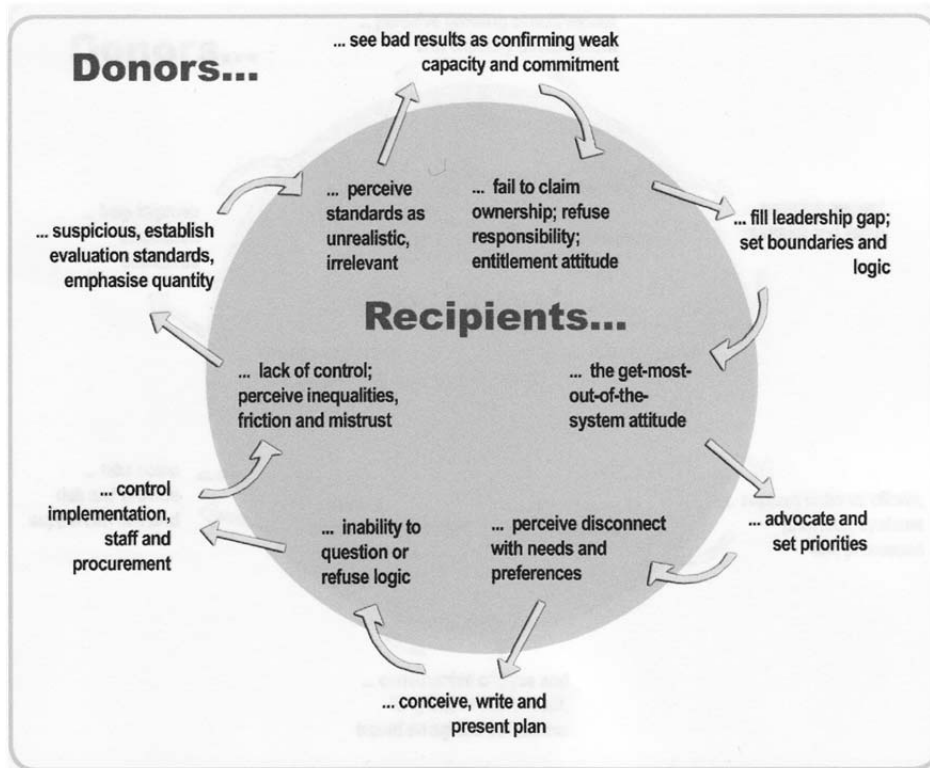
Community wellness is a fundamental determinant of cultural wellness and the potential of individuals to engage in cultural activities. Social and economic instability and hardship are circumstances that can undercut efforts to engage Inuvialuit in cultural development and participation. For example, the use of skidoos, guns and other hunting equipment requires hunters have some source of cash income. In communities where few jobs are available, this is difficult. In many cases, transfer payments from government (e.g. income support) are simply not enough to meet basic expenses and provide seed money for hunting necessities. This sometimes prevents cultural-based connection or places a burden on the community and family members in employment.

### ***Dominant-Subordinate Partnerships***

Partnerships and collaboration are a strength of social and cultural programming and IRC initiatives. However, they are also a source of vulnerability, particularly when partnership involves accessing external funding. Funding priorities may change, criteria for funding may change, levels of funding may change. All of these result in vulnerability of the scale and extent of activities and of institutional stability, but may also impact the focus of programming allowed under funding agreements. Thus, partnership can result in a dominant-subordinate relationship, where funders' priorities take precedence over the IRC's priorities. Such situations are common among developing country non-governmental organizations dependent on external aid and where their funding promotes the priorities of the funder rather than of the recipient and which acts as a destabilizing force.

### ***Funding Approaches: Discussion***

The issue of funding approaches taken by Canada is worthy of a short discussion as it reverberates throughout all efforts of the IRC, its departments, agencies, and businesses as they attempt to achieve the stated goals of the Inuvialuit Final Agreement.

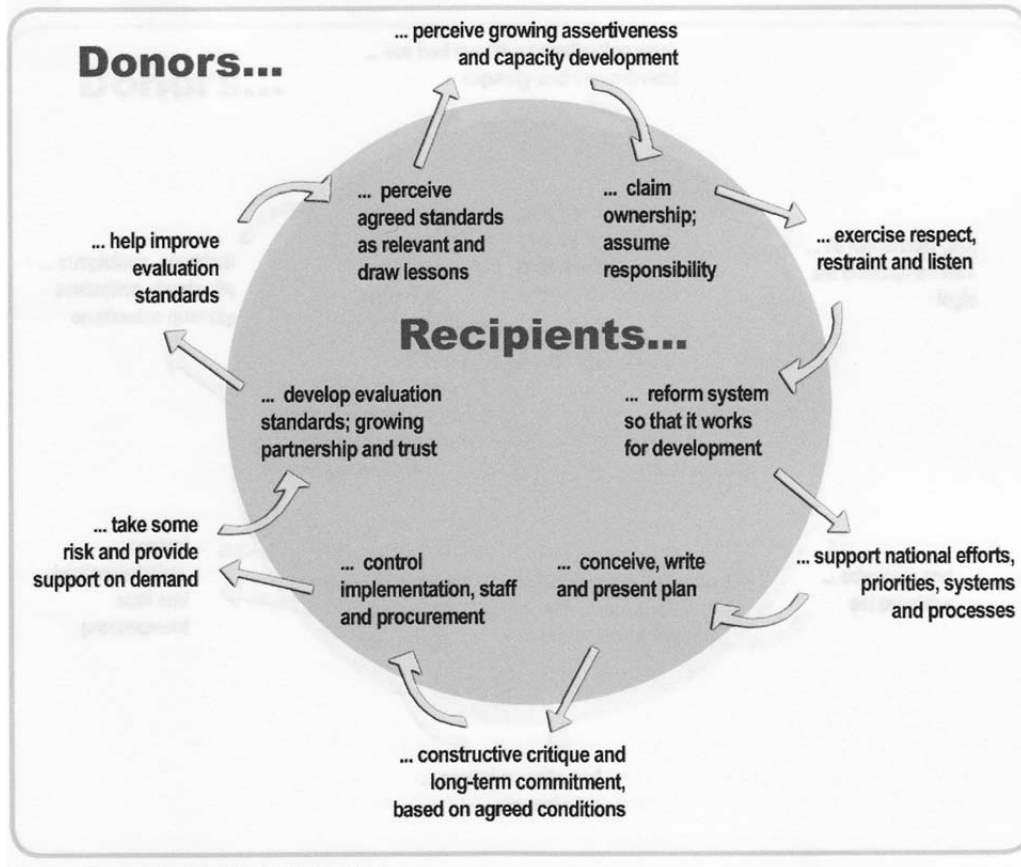


Literature on donor aid in the developing world has established that the approach donors take to providing funding and resources to assist agencies and communities in meeting their needs is critical in achieving desired outcomes. Negative impacts issuing from donor approaches to aid include:

- Donors setting and/or micro-managing program priorities;
- Creating instability through funding cycles that serve the needs of the donor rather than the program/population needs;
- Accountability measures that cause a significant reporting burden for the recipient and that can undermine or negatively impact the ability of the recipient to perform the functions to achieve goals; and
- Inability to establish and maintain stable institutional structures and programming, given vulnerability to policy, priority and funding level changes by donors.

The above issues are common throughout Indigenous communities in Canada which, having been dispossessed of their traditional lands and resources, socially disrupted by residential schooling and its ongoing impacts, and besieged by the health and social impacts of a combination of enforced poverty and colonization, are dependent on government 'donor' transfers to provide for their basic needs in addition to attempting to recover from colonization's impacts.

The IRC and the Inuvialuit, through ongoing protection and assertion of their rights, mainly by developing a stable institutional structure and sound financial base, are somewhat insulated from the worst impacts of the “Disempowerment Model”, which characterizes the federal approach to funding Indigenous communities and organizations in Canada. However, the IRC is impacted by a heavy administrative burden (e.g. having to “carry” various programs between funding breaks), and by having to redirect profits from its businesses to fund its own administrative structure (whereas First Nations receive funding to support their administrations), creating a significant economic and social drag as those funds could be used elsewhere.



There are other ways of funding that could promote better results for money spent.

An ‘Empowerment Model’ of donor aid that fosters independence and accountability and is oriented toward recipient results rather than the donor’s own administrative requirements. This model is more reflective of a partnership approach rather than a dominant-subordinate model of interaction. In concrete terms, it would include funding approaches that:

- Respond directly to the stated priorities of the recipient, and require the recipient to present evidence and plans for addressing priorities based on target population needs;
- Provide multi-year funding at stable levels;

- Allow broad policy and priority setting by the donor and a commensurate accountability process; and
- Create commitment, positive morale and progress through establishment of a system characterized by trust, stability, and equality.

Given its extensive experience of delivering federally and territorially funded programs to IRC beneficiaries over the last 20 – 30 years, its stable institutional structure supported by internationally recognized standard accounting practices as well as significant financial security, the IRC would be an excellent candidate for an Empowerment Model of funding by the federal government. Such a model would significantly reduce the reporting strain, economic drag and administrative burden that current funding practices impose on the IRC.

## **11.4 Summary**

Issues with respect to promoting cultural vitality and the aligned goals of the Inuvialuit Final Agreement are ones that relate to a combination of power relations, resources and the ongoing impacts of colonization. If the IRC's efforts toward promoting and developing cultural vitality are to succeed, individual Inuvialuit must to a large extent take responsibility for living their culture to the greatest extent possible. Canada, for its part, must recognize that this personal responsibility is most fully realized when there are supports and resources to draw on from the larger community. Establishing those resources is an area where the Treaty partners each have a role. In particular, Canada and the GNWT must view the IRC as a service delivery partner whose capabilities are directly impacted by the funding and accountability approaches taken by funders.

## ***12. Institutions and Decision-Making Processes***

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### **12.1 Alignment with Inuvialuit Final Agreement Goals**

This section describes the institutional structure of the IRC (except for lands management, covered in section one) and identifies strengths and threats, with particular focus on how land claim implementation supports the institution's progress toward Inuvialuit Final Agreement goals, or may pose a threat to progress toward those goals. Thus, this section answers the following questions:

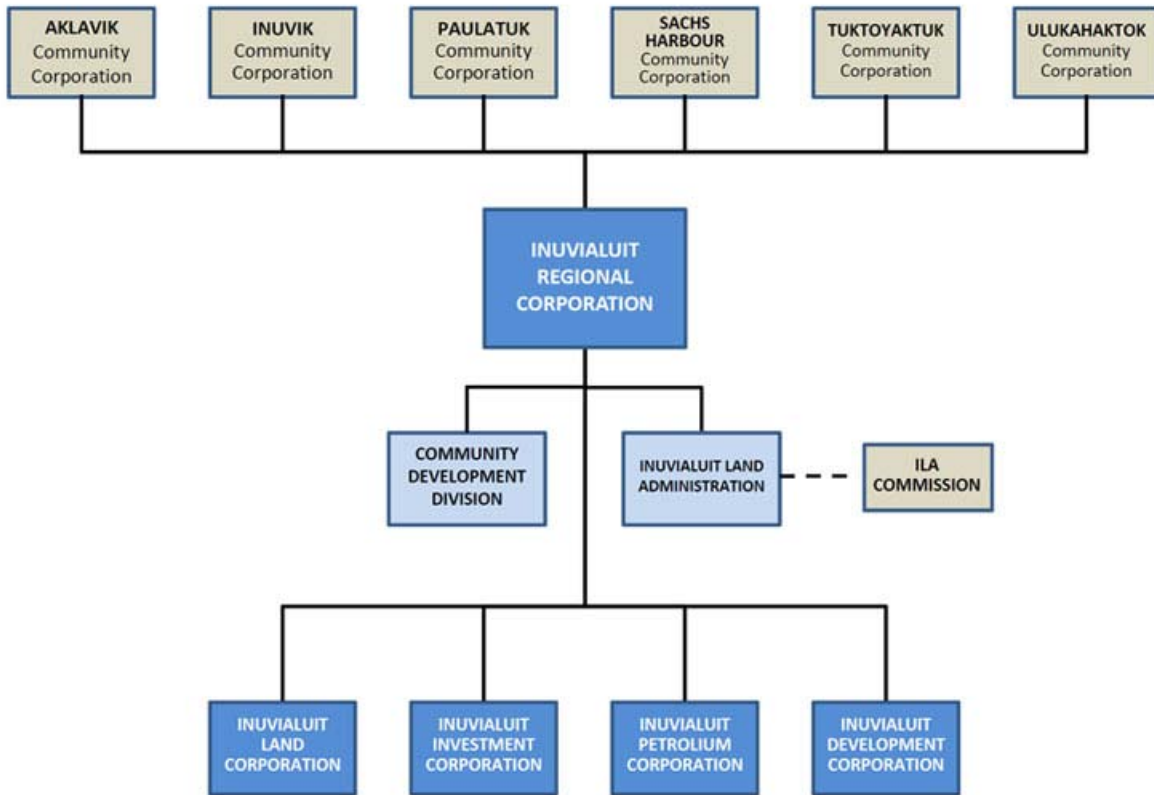
- Is the necessary institutional structure in place to achieve the Inuvialuit Final Agreement goals?
- To what extent is each institution designed to contribute to the goals of the Inuvialuit Final Agreement?
- For each institution, to what extent are the core elements in place to maximize the achievement of the goals?
- Do policies or processes of Treaty partners impact institutional structures' abilities to achieve goals? (Operational context)

Relevant Inuvialuit Final Agreement goals for this section include all three, namely:

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

## 12.2 Context: IRC Structure

Figure 23: IRC Structure<sup>149</sup>



### *Political Structure*

The IRC is controlled by six community corporations. Each community corporation has a seven-member board of directors, including a Chairperson. The Board meets quarterly to make decisions about policy direction to be given to the IRC Chairperson and staff. Every three years the “42 Directors” meet to determine the strategic direction of the IRC for the following two years. This strategic direction sets the context for yearly business planning by the IRC senior staff and Chairperson.

<sup>149</sup> <http://www.irc.inuvialuit.com/about/structure.html>

Community Corporations represent the interests of community members and have regular meetings to discuss matters and make decisions of a local nature and in relation to the collective concerns of the Inuvialuit and IRC. Community corporations may administer programs locally with the support of the IRC as well as have a direct say in matters of IRC policy and decision-making where they have a direct interest (for example, community conservation plans; regional wellness strategy).

### ***IRC Operations***

The IRC has been operating since 1984. During that time, the organization has developed into a well-respected, stable, and innovative land claim organization. It is widely recognized as being the most institutionally mature, financially stable, economically successful and politically cohesive Indigenous government in the Northwest Territories. This is a standing that it also occupies in relation to land claim organizations and Indigenous governments throughout Canada.

While IRC operations have been divided into discrete areas, including legal, financial, economic development and investment, and social development, it is the synergy created by initiatives in each of these areas that is moving the IRC toward achieving the Inuvialuit Final Agreement goals.

The IRC Chairperson oversees all day-to-day operations of the organization and is the public and political face representing the interests of the Inuvialuit. Her senior staff include the Chief Legal Officer, Chief Financial Officer and Chief of Staff.

Reporting to senior staff are directors of the various department of the IRC. These include the Chief Human Resource Officer, Controller, Chief Land Administrator, Director of Operations, Director of Community/Beneficiary Relations, Director of Corporate Relations, and Director of Intergovernmental Relations.

The Executive Director of the Community Development Division reports to the Director of Operations.

There are four legal entities that report directly to the IRC Chair. These include the Inuvialuit Development Corporation, the Inuvialuit Petroleum Corporation, the Inuvialuit Investment Corporation and the Inuvialuit Land Administration Commission.

The Inuvialuit Cultural Resource Centre reports to the Executive Director, Community Development Division.

### ***Economic Development and Investment***

The IRC maintains three separate entities to control and manage land claim capital, investments and profits that are used exclusively for economic development purposes.

The Inuvialuit Investment Corporation has a mandate to protect the land claim compensation funds and other funds it may be allocated by the IRC, and to maximize its value through investment. To achieve its mandate, the Inuvialuit Investment Corporation capital is managed by professional investment managers and has holdings internationally. Mandated to increase the wealth held on behalf of beneficiaries, it does not play a role in local or regional economic development.

The Inuvialuit Petroleum Corporation holds a joint venture company (Ikhil) focused on oil and gas industry-related equipment and infrastructure.

The Inuvialuit Development Corporation has a mandate to participate in profit-making, employment and economic development-generating ventures of benefit to Inuvialuit. The Inuvialuit Development Corporation owns (in partnership with Nunasi Corporation) the NorTerra Group of Companies, including local infrastructure companies such as Canadian Airlines, Bradenbury Expediting and Northern Metallic Sales as well as Weldco Beales, a company that fabricates and supplies equipment to the oil and gas industries.

The economic and investment institutions of IRC are discussed in a subsequent section of this report.

### ***Community Development, Human Resources and Intergovernmental Relations***

Interviewees estimated that programs and services related to social wellness, capacity development and governance make up the major source of external funding and thus, programming offered by the IRC each year. IRC administers approximately \$14 million yearly via 70 grant and contribution agreements from external agencies through its Community Development Division as well as associated initiatives. Interviewees noted that as the organization has matured, it has established a track record for competent program management and administration. This has enhanced its capacity to take on additional programming and proactively pursue opportunities.

### ***Comparable Land Claim Institutional Structures***

There is no way to directly compare land claim structures to the IRC as each land claim is unique in terms of its legal, political and geographic character and scale. However, all land claim organizations are responsible for administering land claim agreement rights and benefits. Given that claims are so different in terms of content, character, date when they were negotiated, impacting stage of development, and policies under which they were negotiated, which determines content, it is impossible to measure claims and their representative institutions against each other.

However, a review of land claim agreement-based structures shows that the IRC has well established institutional features similar to all land claim organizations. Generally, each land claim institutional structure reflects the powers and responsibilities contained within its agreements. Some agreements (such as the Nisga'a, Tli'cho and the James Bay and Northern Quebec Agreement) include provisions for local governance bodies established by



provincial/territorial legislation, and land claim authorities established through the agreement. Others such as the Inuvialuit Final Agreement and Gwich'in for example, provide only for land claim authorities, with governance being negotiated through separate agreements.

However, the basic institutional components of each land claim include:

- Elected, community-based governing councils administering local land claim rights, benefits and responsibilities;
- An elected regional council (linked to local councils) which administers collective land claim rights, benefits and responsibilities and oversees collective administrative interests (enrollment, disbursement of monies, representation at territorial/national initiatives);
- A Chairperson, President or Grand Chief to lead and represent the regional institution;
- A mechanism for preserving and protecting land claim compensation capital for future generations of the collective; and,
- Mechanisms for participation in land and resource management decision making within their settlement regions/traditional territory.

The IRC has each of these components. Beyond these basic elements, land claim institutional structures vary widely depending on their socio-economic context, political culture, and collective vision.

Older land claims (the James Bay and Northern Quebec Agreement, Inuvialuit Final Agreement) and governments with centralized institutional structures and land claim and self government provisions in their agreements (Tlicho, Nisgaa) have well developed social and community development programs within their organizations. Other agreements, which are younger, do not have self-government provisions or have decentralized structures (Sahtu, Gwich'in). Others have central institutions developed strongly around land and resource management decision-making with less emphasis on social wellness, programs which are often delivered locally by First Nation councils without extensive regional support.

### ***Literature Review***

Literature relating to Indigenous governance in Canada and the NWT has little to say about institutional development issues from operational perspectives relating to achieving land claim goals. Despite this, the literature that does exist includes articles looking at the Inuvialuit experience in particular.<sup>150</sup> Generally, however, the literature is oriented to measuring the efficacy of Indigenous governance with respect to achieving economic development<sup>151</sup> and achieving rights recognition.<sup>152</sup>

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<sup>150</sup> Wilson, Gary and Alcantara, Chris. "Mixing Politics and Business in the Canadian Arctic: Inuit Corporate Governance in Nunavik and The Inuvialuit Settlement Region", *Canadian Journal of Political Science*, 45:4, December 2012, pp781-804; White, Graham, 2009. "Nunavut and the Inuvialuit Settlement Regions: Differing Models of Northern Governance" in *Northern Exposure: Peoples, Powers and Prospects in Canada's North*. Eds Frances Abele *et al* Montreal: IRPP.

<sup>151</sup> Whittles, Martin, "Economic Development as if Culture Matters: Inuvialuit Wild Game Harvesting, Community Based Economic Development and Cultural maintenance in the Western Arctic", *The Journal of Aboriginal Economic Development*. Vol. 4 No 2, 2005; Cornell, Stephen and Joseph B Kalt, 1998. "Sovereignty and Nation

Perhaps the most relevant literature for the purposes of this evaluation issues from related contexts among Indigenous peoples in the United States and Australia. In the United States, the Harvard Project on American Indian Economic Development has provided an influential although problematic analysis of essential elements of functional Indigenous institutions. The Centre for First Nations Governance (Canada) has done significant hands-on work with First Nations relating to developing stable governance institutions in *Indian Act*, Treaty, and land claim contexts. The Indigenous Community Governance Capacity Project at the Australian National University culminated in an Indigenous Governance Toolkit. Each of these projects involved years of research with many communities and researchers.

The Australian project emphasizes the complex and networked nature of governance within Indigenous communities. It conceptualizes governance as a system rooted within community norms and practices, from the perspective of how external agents might negotiate this reality and tailor their understandings and expectations accordingly. The project emphasizes the centrality of culture to effective and legitimate governance systems and institutions, as illustrated in the diagram below. It also focuses on the capacity necessary to generate the legitimacy and effectiveness of governance with respect to the delivery of programs and services to Indigenous peoples, rather than taking an economic development approach.



**Figure 24** Indigenous Institutional Success Elements<sup>153</sup>

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Building: The Development Challenge in Indian Country Today” *American Indian Culture and Research Journal*, Vol 22, Issue 3 187-214.

<sup>152</sup> Irlbacher-Fox, Stephanie, 2009. *Finding Dahshaa: Self Government, Social Suffering and Aboriginal Policy in Canada*. Vancouver: UBC Press.

<sup>153</sup> Indigenous Governance and Culture, Source: <http://governance.reconciliation.org.au/toolkit/2-0-culture-and-governance>

In contrast, Canada's now discontinued Centre for First Nations Governance was making strides toward supporting Indigenous Governance development and capacity prior to its sudden closure due to funding cuts earlier this year. Its insights appear to emphasize an institutional approach modeled closely on non-Indigenous governance models, rather than centering its conceptualization on a cultural basis as is the case with the Australian research. With a mandate to conduct research and provide governance support services to Indigenous communities, it produced a range of academic and practitioner-oriented research and resources for communities. Most recently, it developed a "governance Toolkit" similar to the Australian approach. It lists five main pillars of Indigenous governance, namely:<sup>154</sup>

- The People: strategic vision; meaningful information sharing; participation in decision making;
- The Land: territorial integrity; economic realization; respect for the spirit of the land;
- Laws and Jurisdictions: expansion of jurisdiction; rule of law;
- Institutions: transparency and fairness; results-based organizations; cultural alignment of institutions; effective intergovernmental relations; and
- Resources: human resource capacity; financial management capacity; performance evaluation; accountability and reporting; diversity of revenue sources.

Under each of these pillars, the principles listed are intended to guide specific actions ensuring the strength of each pillar as a necessary foundation for effective governance.

Finally, the Harvard Project on American Indian Economic Development is perhaps the most influential of the projects relating to Indigenous Governance development. It lists four principles for effective Indigenous governance with a view to viable economic independence:

*Sovereignty Matters.* When Native nations make their own decisions about what development approaches to take, they consistently out-perform external decision makers on matters as diverse as governmental form, natural resource management, economic development, health care, and social service provision.

*Institutions Matter.* For development to take hold, assertions of sovereignty must be backed by capable institutions of governance. Nations do this as they adopt stable decision rules, establish fair and independent mechanisms for dispute resolution, and separate politics from day-to-day business and program management.

*Culture Matters.* Successful economies stand on the shoulders of legitimate, culturally grounded institutions of self-government. Indigenous societies are diverse; each nation must equip itself with a governing structure, economic system, policies, and procedures that fit its own contemporary culture.

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<sup>154</sup> <http://www.fngovernance.org/pillars>, May 2013

*Leadership.* Nation building requires leaders who introduce new knowledge and experiences, challenge assumptions, and propose change. Such leaders, whether elected, community, or spiritual, convince people that things can be different and inspire them to take action.

*Strategic Thinking.* The Indian nation has moved away from crisis management and opportunistic, quick-fix responses to development dilemmas and toward long-term decision making that incorporates community priorities, concerns, circumstances, and assets.<sup>155</sup>

The Harvard Project's remarkable influence far outstrips its lack of originality: its findings are applicable to any well-run organization. Accordingly, these findings have been criticized for being over-stated, for ignoring the impact of economic development on culture and the social, leadership and governance complexity that constitute the context for Indigenous institutional development, which is central to the analyses provided in the Australian research<sup>156</sup>

What is evident for the purposes of this assessment, however, is that the IRC and its institutions tend to meet virtually all of the criteria listed in each set of principles prescribed by these major academic research projects. This is elaborated in the conclusion of this report. This finding is consistent with the small literature that exists focusing on Inuvialuit governance institution development and functioning.<sup>157</sup>

## 12.3 Strengths

### *Policy Development, Collaboration and Advocacy*

Policy development, collaboration and advocacy capacity within the IRC have emerged over time as IRC's central institutional structures have developed and as its financial ability to "carry" programs through the funding stoppages necessitated by government approaches to program funding. This "carrying" requires the IRC to expend resources for governance and administrative costs; and to use its own cash to cover the administration, operations and governance costs of the programs until government funding is in place. This indicates a sophisticated institutional structure where officials routinely must both collaborate and work with external organizations (e.g. federal and territorial governments, industry and universities), which are funders as well as actors that the Inuvialuit seek to influence at the policy and political level.

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<sup>155</sup> Simeone, Tonina. 2007. *The Harvard Project on American Indian Economic Development: Findings and Considerations*. Ottawa: Library of Parliament.

<sup>156</sup> Dowling 2005; Mowbray Martin, "Localizing Responsibility: The Application of the Harvard Project on American Indian Economic Development to Australia", *Australian Journal of Social Issues*, 4(1), 87-103.

<sup>157</sup> White, Graham, 2009. "Nunavut and the Inuvialuit Settlement Regions: Differing Models of Northern Governance" in *Northern Exposure: Peoples, Powers and Prospects in Canada's North*. Eds Frances Abele *et al* Montreal : IRPP; Wilson, Gary and Alcantara, Chris. "Mixing Politics and Business in the Canadian Arctic: Inuit Corporate Governance in Nunavik and The Inuvialuit Settlement Region", *Canadian Journal of Political Science*, 45:4, December 2012, pp781-804.

The IRC's political, social and economic interests may be significantly influenced by these actors. Thus the relationship is multifaceted through an intricate network of connections between officials of the IRC and external organizations, political leadership, and departments involved in economic development, procurement, and setting economic policies or delivering programs with a direct economic impact.

The IRC staff therefore must negotiate a situation in which their program interests lie within a larger web of relationships with external agencies. Internally, the organization has mechanisms to ensure that senior staff are aware of the "big picture" relationship and how individual programs and departmental responsibilities fit in relation to the larger frame. In addition, the IRC has developed a suite of policies, job descriptions, mandates, and work plans for each of its program areas and staff to ensure stability, consistency and coherence in its operations as well as in its dealings with external actors.

Thus, the IRC corporate norms include fostering capacity and autonomy among senior staff and leaders in undertaking the following:

- Negotiating and advocating with government to secure program funding and administrative arrangements;
- Overseeing regional administrative and partnership support for community-based program delivery;
- Participating in consultative and policy forums initiated by external organizations and governments developing strategies and programs;
- Leadership advocating for policy priorities and specific measures at the political level;
- Conducting research and analysis informing IRC social policy positions and supporting leaders and officials in working with governments, determining priorities, and designing programs; and,
- Delivering regional services (dietician, youth worker, counselor) in Inuvik and on a rotating basis in communities to address priority needs.

### ***Institutional Independence***

The IRC has legally separate or "arms length" divisions that fulfill specific tasks as organizations independent from the IRC. These tasks require professional stewardship and day-to-day decision making, given both their importance and the highly technical nature of the knowledge required to discharge these responsibilities competently. The "arms length" divisions include the Inuvialuit Community Development Division and Cultural Resource Centre, the Inuvialuit Development Corporation, the Inuvialuit Land Administration and Commission and the Investment Corporation. These organizations are recognized as having specific functions and purposes, whose professional staff manage the organizations and their activities and make recommendations to the IRC board that may be based on statutory and technical requirements (laws, regulations, academic or industry-standard scientific research). Conventions established include trust in the professional staff or appointed members to carry out their activities in accordance with policies and goals set by the IRC board. This fulfills an essential requirement for separation between politics and business or technical requirements, essential to ensure productive functioning of agencies working toward the vision set by the political leadership.

### *Political Structure and Accountability*

The political structure of the IRC is based on its organizational structure and corporate practices based on convention.

Aligned with the political culture of the Inuvialuit, the IRC has a formal structure consistent with public and beneficiary expectations of democratic rights recognition through a system of elected boards of directors for community corporations. Consistent with Inuvialuit political culture, leaders are viewed as representatives with a significant responsibility to consult and build consensus as the foundational mechanism for fostering and maintaining community support for both their leadership and the initiatives they undertake.

The board of directors is responsible for overseeing the organization, composed of its businesses and investments, political relations and advocacy activities, and social development programs. In addition to quarterly board meetings, all “42 directors” – the councillors and chairpersons of each community corporation – meet every three years to set strategic direction. The consequent responsibilities for executing programming within that strategic framework are discharged by a professional bureaucracy divided into specialized task units.

However, unlike non-Indigenous organizations, accountability to beneficiaries is a key animating force in how IRC staff undertake their tasks. Constant consensus building and involvement of beneficiaries in decision making through consultation functions as a form of ongoing formative evaluation, which underpins the IRC’s authority and legitimacy in the eyes of beneficiaries. Expectations of consultation with beneficiaries has translated into a convention of yearly “corporate tours”, where key IRC staff travel to each community to give overviews of their program activities and progress and are expected to listen to and incorporate the views of community members. In addition, the staff is expected to attend annual community corporation meetings, and to go to communities to meet with residents to explain or seek input on specific initiatives. Such mechanisms satisfy the political cultural norm of accountability not only from elected representatives but also from IRC officials, who correspond with Inuvialuit political cultural norms of “task leaders”, responsible for accomplishing specific initiatives on behalf of the collective. Thus, both political leaders and employees are held accountable through the corporate tours. In addition, significant policy initiatives, such as self-government and devolution negotiations, regional wellness planning, a mental health strategy – each of these require additional ongoing consultations with beneficiaries. This serves to build knowledge among beneficiaries, gather baseline data on needs and priorities, and fulfill the important political cultural convention of ongoing trust and accountability building.

In this sense, the IRC both bears and meets a dual set of institutional performance norms and expectations. Therefore, the organizational structure and the IRC’s professional staff complement performs at standards commensurate with or surpassing those of similar institutions (governments, industry other land claim organizations), establishing a basis of authority and legitimacy within the dominant society. The iterative convention of ongoing consultative practice at two levels – general and specific – acknowledges and values organizational alignment with Inuvialuit cultural expectations and practice around accountability, consensus-building,

legitimacy, accountability and transparency. As discussed in the literature review, these traits are consistent with analyses identifying such elements as essential to successful Indigenous government and business institutions.

### ***Responsive Operational and Policy Context***

In several instances, government departments have altered funding arrangements or policy approaches in response to or in consultation with the IRC. Operational level examples include the federal Department of Health allocating suicide prevention funding directly to the IRC instead of to the GNWT; or the Beaufort Delta Education Council adjusting contribution agreements to ensure education programs are funded consistent with the school year rather than the fiscal year.

The Public Health Agency of Canada was cited as an example of a funder that takes a hands-on approach to accountability by doing on-site visits rather than requiring excessive paperwork of funding recipients. It manages accountability and demonstrates responsiveness through welcome on-site visits. Their willingness to be responsive and flexible with respect to meeting the needs of IRC and its target priorities and populations contributes to IRC's stability and ability to build capacity. The Public Health Agency of Canada approach is one that fosters true partnership.

At the Treaty Implementation level, adjustments such as establishing a federal procurement policy specific to land claim requirements, is a step in the right direction in terms of ensuring Treaty provision compliance across the federal government on this important economic issue. While this does not fully meet the Inuvialuit Final Agreement goals, it represents progress. Over the past few years since AANDC staff has changed, the IRC has worked with AANDC staff who have made significant improvements in the Treaty Implementation approach that Canada is taking with respect to standardization, transparency and responsiveness.

The GNWT has worked closely with the IRC on initiatives such as its Anti-Poverty Strategy and its Shelter Review, demonstrating a limited responsiveness to addressing policy contexts that directly impact social determinants of health of Inuvialuit. While the general policy initiatives align with IRC interests, the GNWT has much work to do with respect to fulfilling specific IRC recommendations.

The willingness of Treaty Partners to approach collaborative efforts reflective of an empowerment approach to partnership has yielded positive results not only with respect to discrete program areas, but also with respect to IRC's ability to focus its energies on program delivery or issue resolution rather than on advocacy or reporting and administrative burdens.

## 12.4 Threats

*“We regularly encounter situations where our funding ends on March 31 each year, and the new funding does not come until June or July. IRC has to carry us, but because it is year to year and requires a proposal, we don’t know how much we can spend if we are not sure if they will fund us or not...”*

*“There is one department that went back and forth with us so many times. They change staff constantly so we don’t know who the contact is and that takes up our time to figure out, then they want little wording changes here and there, they keep coming back again and again. Last year we got the funding in February and it had to be spent by the end of March. It is beyond frustrating.”*

### ***Policy Context***

Policy choices of Treaty partners appear to be a significant threat to maintaining and further developing IRC’s institutional stability. Specifically, these policy approaches do not just destabilize institutions and their ability to delivery programming. They also create policies, which have direct and negative impacts on social determinants of health.

The IRC has conducted various research reports on issues such as addictions and mental health, social housing, educational barriers and issues, and economic realities faced by Inuvialuit communities from a household perspective. All of these indicate that policy choices of government can serve to undermine efforts to address capacity building in Inuvialuit communities. This situation is reflective of the extent to which Inuvialuit and Inuvialuit institutions do not have control over ensuring the basic needs of their people are met. Research has demonstrated that greater control over governance self-determination in key areas constitutes protective factors for wellness.<sup>158</sup>

Social housing policies are often cited as examples. In several communities, a majority of the housing stock is owned by the NWT Housing Corporation. Private housing is almost non-existent and rents or mortgages out of reach for most residents. Housing policies that require market rental rates from employed persons has resulted in documented cases where individuals refuse employment so that they will not lose their home and instead made a more economically rational choice to stay on income support in social housing. This is devastating to individuals psychologically and breeds hopelessness and helplessness that can have a huge impact on individuals and families.

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<sup>158</sup> Chandler, Michael and Christopher Lalonde. 1998. “Cultural Continuity and a Hedge Against Suicide in First Nations Communities” Transcultural Psychiatry. Accessed at: <http://web.uvic.ca/~lalonde/manuscripts/1998TransCultural.pdf>



The IRC has tabled its research with governments, research that demonstrates that policies are actually harmful rather than contributing to strengthening protective factors. One example is the social housing research conducted by IRC and which advocated specific policy change. In its submissions, the IRC has been extremely pragmatic. Substantive actions are advocated to address specific circumstances and their impacts, based on evidence. What the IRC has advocated in the social policy area are responsive and flexible policies that solve problems.

### ***Funding Practices***

Inadequate funding decision making and cash flow practices of funders have a direct, measurable, well-documented destabilizing effect on the stability of IRC as an institution. These issues have been ongoing for years, and are common to Indigenous communities with respect to government funding.

Such practices include:

- Yearly requirements for proposal-based funding for ongoing programs;
- Federal transfers of funding to the GNWT to administer Aboriginal initiatives, including Inuvialuit, instead of informing/consulting the IRC and/or making direct arrangements with the IRC;
- Funding offers and contribution agreements for the fiscal year confirmed after or at the end of the first quarter;
- Funding levels arbitrarily changing without reference to program needs or requirements;
- Administrative burdens imposed or not paid by funders; and
- Multiple small funding-program based grants from single departments with separate contribution agreements and reporting requirements.

All of these practices have a direct economic drag effect on the IRC, and a social drag effect on the populations being served; a de-stabilizing effect in terms of staffing activities and morale, cash flow, and carrying costs; an impact on staff retention when program continuation or scale/content is in jeopardy; and ongoing frustration with the inability of funders, year after year, to address these shortcomings despite the obvious negative impacts they are having on organizations and communities.

### ***Social Determinants of Health***

The social suffering experienced by individuals and the Inuvialuit collectively has been documented extensively in social science and medical literature. It is an established fact that residential schooling has been the single most destructive social policy that continues to have effects within Indigenous communities generally: this is certainly true for the Inuvialuit. The ongoing and individual and collective effects of colonization continue to produce social suffering in communities despite the best efforts of governments, the IRC and various organizations to address social issues.

It is also well-established in the literature that social determinants of health have a direct and measurable socio-economic impact among Indigenous populations, including the Inuvialuit.<sup>159</sup> Social determinants of health are the social and economic conditions in which people live that have a significant impact on their social, economic, mental and physical health.

With respect to how social determinants of health impact stable institutional development and maintenance, the elements are varied and far-reaching. For example, low educational attainment threatens the IRC's ability to succession plan or plan for professional expansion based on the recruitment of beneficiaries. Basic needs, such as housing and food, are sites of insecurity for sectors of the Inuvialuit population and this severely curtails the individual potential and positive protective factors of Inuvialuit youth and adults. This situation also limits the growth of the IRC institutionally as it must focus resources on advocacy as well as "band-aid" programming to address shortcomings in the programs and policy choices of other governments. The costs, therefore are economic, social, and psychological at all levels.

## 12.5 Summary

The IRC is a well-established, stable, financially independent institution that meets all criteria for success and stability set out in academic research projects relating to Indigenous governance. This reality underpins its capacity and success with respect to its organizational scope. However, the IRC's progress toward achieving its land claim goals is continually hindered by the external policy choices of partners. This is with respect to both its institutional functionality and with respect to the social and living conditions of the Inuvialuit population, which creates issues both for demand for services and with respect to IRC future institutional development.

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<sup>159</sup> Chandler and Lalonde, 1998; Kirmayer, Laurence, and Gail Valaskakis (eds). 2009. *Healing Traditions: The Mental Health of Aboriginal Peoples in Canada*. Vancouver: UBC Press; Inuvialuit Regional Corporation. 2012. *The Economic Life of Inuvialuit Households 2012 Paulatuk Study*. Inuvik.

## 13. Economic Opportunities

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### 13.1 Alignment with Inuvialuit Final Agreement Goals

This section seeks to answer the following questions:

- What initiatives are underway to encourage economic opportunities in the Inuvialuit Settlement Region? How effective has each initiative been?
- Are there any gaps that, if addressed, could improve the Inuvialuit Settlement Region economy?
- To what extent are the core elements in place to support economic opportunities?

These questions seek to describe progress that has been made toward reaching the following Inuvialuit Final Agreement goal:

- Enable Inuvialuit to be equal and meaningful participants in the northern and national economy and society.

### 13.2 Literature Review

Academic literature on economic opportunity and economic development specific to the Inuvialuit is sparse.<sup>160</sup>

A broader economic development literature exists, relating mainly to First Nations and Northern economic development. However, much of that literature is First Nation context-specific, generally focusing on Indian Tribes in the United States (gaming, reservation-based sovereignty) which operate in a specific legal recognition context, and First Nations in Canada, which also operate in a specific legal recognition context (*Indian Act*, Reserves), which does not apply to the Inuvialuit. While there are some similarities in the situation of Alaska Natives with respect to corporate-based land claim settlement arrangements, the arrangements based on the *Alaska Native Claims Settlement Act* are sufficiently different to be of little comparative value with the case of the Inuvialuit. The Nunavut and Nunatsiavut land claims also provide little in the way of comparative value, both institutionally and with respect to the impact of the land claim on economic development, given differences in context, scale, and institutional design and capability.

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<sup>160</sup> Robinson, Mike, Mark Dickerson, Jack Van Camp, Wanda Wutunee, Michael Pretes, and Lloyd Binder. 1989. *Coping With the Cash: A financial review of four northern land claims settlements with a view to maximizing economic opportunities from the next generation of claim settlements in the Northwest Territories*. Yellowknife: Special Committee on the Northern Economy; Usher, Peter J. and Gerard Duhaime and Edmund Searles. 2003. "The Household as an Economic Unit in Arctic Aboriginal Communities, and Its Measurement By Means of a Comprehensive Survey", in *Social Indicators Research* 61: 175-202; Inuvialuit Regional Corporation. 2012. *The Economic Life of Inuvialuit Households 2012 Paulatuk Study*. Inuvik.

The previous section references the work of the Harvard Project on American Indian Economic Development, which emphasizes stable and robust governance institutions, the separation of politics and business, and a level of “sovereignty” or control over key governance jurisdictions as a precursor to stable economic development.<sup>161</sup> The Harvard Project also emphasizes that those institutions must have “cultural match” to be legitimate and effective over the long term.

As this section will demonstrate, and what is confirmed by a review of the IRC’s institutional structure and economic success, the IRC could reasonably be viewed as a classic case of Indigenous economic success within a land claim context. The Inuvialuit, that is, have achieved significant economic success in the mainstream capitalist wage and profit-based economy at the corporate level. That the IRC and its businesses are worth close to \$600 million, generated over the last 30 years, would register as a success by any standard with respect to measuring progress toward the Inuvialuit Final Agreement goal of being equal and meaningful participants in the national and regional economy.

However, it is at the individual and community level rather than the corporate level that the Inuvialuit are not making progress. Inuvialuit are, in fact, according to the statistics, failing to achieve significant progress toward that goal. This was noted by more than one interviewee as a source of significant frustration and effort by the IRC. To grapple with this issue, analytical insight can be found in a different literature, namely, that focusing on the household as an economic unit, providing an explanatory model for not only how people survive in economically disadvantaged communities, but also an evidentiary basis on which economic policy can be changed to provide for better outcomes.

In a landmark paper, Peter Usher, Gerard Duhaime and Edmund Searles, together with over 40 years of combined research on Arctic subsistence life-ways, “posit the household as an economic “micro-enterprise” that is the basic unit of both production and consumption...describing a model of the household in mixed, subsistence-based economies, and describes its characteristics and activities”.<sup>162</sup> Subsistence economies, they argue, are where households integrate hunting and gathering with wage labor and transfer payments. It is neither “traditionally Aboriginal” nor market based. What is distinctive about this model is not just the blend of inputs, but the importance of the kinship-based sharing that both finances it and determines production and exchange. In addition, the paper emphasizes land (as understood broadly as the ecosystem), and access to it for subsistence purposes, is the basis of all productive activity in a subsistence system. People in these economies are not caught between two worlds, rather, they have a unique economic system.

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<sup>161</sup> Cornell, S. and Kalt, J., 1989. “Pathways from Poverty: Development and institution building on American Indian reservations”, Harvard Project on American Indian Economic Development, PRS89-5, Cambridge, MA: JFK School of Government.

<sup>162</sup> Usher, Peter J. and Gerard Duhaime and Edmund Searles. 2003. “The Household as an Economic Unit in Arctic Aboriginal Communities, and Its Measurement By Means of a Comprehensive Survey”, in *Social Indicators Research* 61: 175-202

The IRC-AANDC sponsored research, based loosely on this approach to understanding the economy in small isolated communities, using Paulatuk as its case study. What that study found in part was that in some communities, even if there were large, employment-intensive, wage-based economies that suddenly appeared, residents are not in a position to benefit significantly. Education levels, levels of colonization-induced social suffering and cultural differences are barriers to fully entering the wage economy. The traditional response to this has been to put major efforts into education and training initiatives and opportunities, fostering participation in the market-based economy. While the Harvard Project might applaud this approach, the Australian Project's findings would rightly question whether interventions with a better cultural match were in place to ensure economic participation. This approach is, in the case of Inuvialuit individuals, more appropriate for seeking to resolve this longstanding economic challenge. The question then, is: how to strengthen and diversify economic participation by conceiving of the economy as it is structured *within the Inuvialuit subsistence household unit as a micro-enterprise*, rather than how it theoretically *should be* structured in a market-based industrial economy predicated on the absence of kinship social relations and instead on the anonymous producer-consumer dependency that characterizes the purely market economy.

Usher *et al* correctly note that governments are not collecting economic data – evidence – on which appropriate economic interventions can be based. They note that in about the year 2000, AANDC stopped collecting relevant economic data that could be used to design appropriate interventions. Until the IRC, Canada or the GNWT begin collecting relevant economic data on the household as micro-enterprise – and at the same time wean themselves from the common governmental construction of Indigenous individuals as welfare-dependent, failed capitalists/consumers – there is unlikely to be any economic or employment support programs that will promote individual economic self-sufficiency on a large scale. While the Paulatuk study<sup>163</sup> used the household as an economic unit of analysis, it did not provide concrete recommendations as to how the situation could be remedied. Usher *et al* do make such recommendations, which should be taken seriously by both the IRC and government as they seek progress in this area. Usher *et al* recommend that to better understand the subsistence economy, appropriate survey tools must be developed and applied to gather information and evidence about these economies and how they are impacted by development (resource extraction, wildlife management) that impact key aspects of their economic system (sharing, land). In addition, socio-economic support programs must be tailored to fit this economic model: the IRC is currently undertaking planning for some in-depth research on this topic.

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<sup>163</sup> Inuvialuit Regional Corporation. 2012. *The Economic Life of Inuvialuit Households 2012 Paulatuk Study*

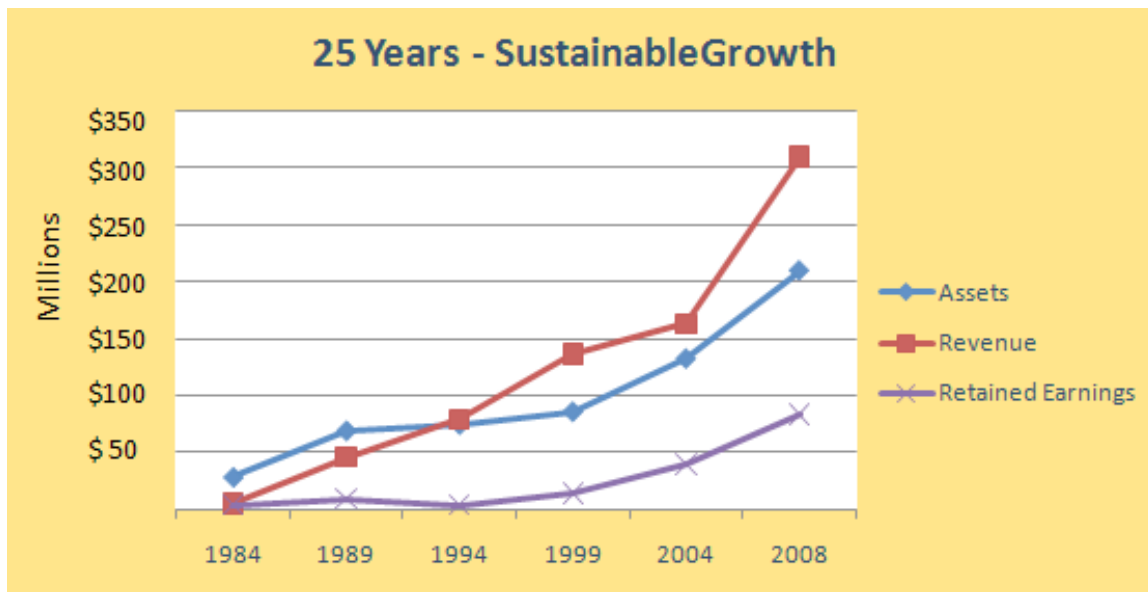
### 13.3 Inuvialuit Development Corporation Overview

*At the Inuvialuit Development Corporation, we are proud to be one hundred percent Aboriginal owned, our sole shareholder being the IRC. We are owners, partners in joint ventures and/or investors in more than 20 companies, many working in complementary industries and realizing complementary visions. And after 36 years of successful investments, the Inuvialuit Development Corporation continues to secure financial and long-term benefits for the Inuvialuit.*

*Receiving our mandate from the Inuvialuit Final Agreement, the Inuvialuit Development Corporation promotes meaningful participation of the Inuvialuit in the Western Arctic, circumpolar and national economies by building and protecting a diversified asset base to generate sustainable financial returns.*

*A builder of futures, the Inuvialuit Development Corporation has been successful in attaining sustainable growth and a return on equity consistent with industry benchmarks. In achieving our revenues and profit, we ensure that throughout our group of companies, the growth actions of today protect the assets of the Inuvialuit for future generations.<sup>164</sup>*

**Figure 25 : Sustainable Growth<sup>165</sup>**



<sup>164</sup> Inuvialuit Development Website: <http://www.idc.inuvialuit.com/about-us/>

<sup>165</sup> Figure 25 Source: <http://www.idc.inuvialuit.com/about-us/>

## The Inuvialuit Investment Corporation

The Inuvialuit Investment Corporation oversees management of a diverse securities portfolio that was initially established with proceeds from the Inuvialuit Final Agreement. The Inuvialuit Investment Corporation's mandate is to achieve the highest possible returns using conservative investment strategies that preserve capital and increase financial resources in order to benefit future generations of Inuvialuit. Its specific objectives are to:

- Protect the value of the investment funds entrusted to the Inuvialuit Investment Corporation.
- Earn a before-tax real rate of return of five percent over the long-term.
- Manage investment funds on behalf of other members of the Inuvialuit Corporate Group, the Inuvialuit Harvesters Assistance Trust, and the Community Corporations.

In order to balance risk and return objectives, in 1977, the Inuvialuit Investment Corporation adopted a revised Statement of Investment Policies and Goals. The resulting asset allocation model set investment targets of 60 percent equities and 35 percent fixed income securities, with permissible deviations of up to five percent.

The Inuvialuit Investment Corporation ended the year with a recorded net loss of \$434,000 reflecting the fall in market value of the portfolio. Although the Inuvialuit Investment Corporation initially experienced growth by mid-2007, this was reversed by year end due to the volatility of the major stock markets. Concerns about “sub-prime mortgages” in the United States caused nervousness in financial markets worldwide. In 2004, new Canadian accounting rules changed the way the Inuvialuit Investment Corporation reports its financial results. Up to the end of 2003, changes in the value of the portfolio were recognized only when the individual assets (stocks or bonds) were sold. Since 2004, changes in the market value of the assets in the portfolio have been reported as an increase or decrease in revenue. This resulted in the Inuvialuit Investment Corporation reporting wider swings in profit (and loss) caused by the markets.

Removing the unrealized gains and losses from the financial report, the Inuvialuit Investment Corporation had actual earnings of \$9,275,000 in 2007 compared to \$10,505,000 in 2006. This is the amount incorporated in the Inuvialuit Corporate Group results and used to calculate the Inuvialuit Investment Corporation's share of the distribution to beneficiaries. The Inuvialuit Investment Corporation's ongoing obligations require it to generate significant amounts of cash throughout the year. Major cash outlays in 2007 included \$1,634,000 to fixed income participants in the portfolio (Community Corporations, Inuvialuit Social Development Program, and Inuvialuit Education Foundation, etc.), management fees to the IRC of \$2,318,000, net portfolio administration fees of \$804,000, a share of the beneficiary distribution of \$1,159,000 and administrative expenses of \$784,000.

At the end of 2007, the Inuvialuit Investment Corporation had a net value of \$193,400,000, a decrease from \$195,000,000 in 2006. Over a four-year evaluation period, the Inuvialuit Investment Corporation achieved a 10.3 percent return compared to the target or benchmark of 10.6 percent.

In 2005, the market value of the financial assets administered by the Inuvialuit Investment Corporation was \$276,300,000 at year-end compared to \$257,000,000 at year-end in 2004.

The Inuvialuit Investment Corporation Board members in 2007 were Frank Hansen (Chair), Janet Kanayok, Evelyn Storr, Michael M. Koerner and Barry Wainstein.<sup>166</sup>

## 13.4 Strengths

### *Institutional Capability and Stability*

The IRC has successfully separated its economic development, investment, land management and political functions so that each are overseen by a core senior staff of professional managers possessing both the technical expertise and diversity of experience that renders each of them adaptable, innovative and highly competent managers of their discrete areas of responsibility. Respondents uniformly displayed a level of personal self-confidence and emphasis on the importance of adherence to or surpassing professional and industry standards with respect to their own performance and the performance of the IRC itself. They also displayed a sincere respect and appreciation for each other's abilities and accomplishments, and for the leadership to whom they report. Respondents uniformly noted that at the decision making level in the IRC there is a clear focus on results and the ability of decision makers to rise above petty politics. This is viewed as the heart and the source of their success. The IRC has a highly functional and cooperative environment, essential to ensuring mutual trust and support conducive to a successful senior management team.

Recruiting and retaining highly capable staff adhering to superior professional and industry standards has resulted in the provision of high quality and detailed information as the basis for better decision making for IRC managers and Board of Directors. It has also promoted a greater understanding among board members, IRC staff and beneficiaries of the IRC's economic relationship with local, national and international economic forces. In addition, it promotes a culture of transparency that is central to good management and trust building between the IRC and beneficiaries.

Every respondent, in all interviews for this study, was unanimous in acknowledging that the IRC's success is driven in part by a combination of the strategic vision, genius, management skill and sometimes sheer strength of personality of the IRC Chair. Having as its Chair one of the strongest and most well-respected former land claim negotiators and former NWT Premiers of her generation, has provided the IRC with a level of political influence that directly contributes to IRC's success. Highlighting this issue is not to over-emphasize the Chair's importance at the expense of the contributions of others or the value of their talents. Rather, it is a real and important factor to consider with respect to the long-term future of the organization and as an element of its current success.

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<sup>166</sup> Source: <http://www.irc.inuvialuit.com/corporate/investment.html>



This phenomenon of the impact of a single individual is not uncommon among Indigenous governments and companies led by extraordinary individuals. People such as Matthew Coon-Come, Chief Clarence Louis, Mary Simon, Berndt Christmas and others come to mind as Indigenous individuals who have respect as Tri-Sector leaders, who have channeled that respect and their unique combinations of personality traits and accomplishments in the service of the social, political and economic goals of their people, achieving impressive outcomes. While the current Chair is a source of strength for the IRC, the Chair is also, through establishing a stable institutional structure and competent staff, ensuring that her own personal and political credibility and clout transfers to the institution itself. Maintaining the benefit of that over the long term will be a challenge for the IRC and should receive due attention.

### ***Human Resources Function***

The purpose of the Human Resources Department is to provide effective Human Resources leadership and strategy to the IRC and promote financial autonomy for all Inuvialuit through the development, implementation and funding of employment and training programs that enable beneficiaries to access opportunities and be successful in the work force, both within the IRC group of companies and externally.

The IRC has a strong and active Human Resources function. The IRC's Human Resources Department has also taken a strategic and concentrated approach to harnessing partnerships as the basis for much of its education, employment and training initiatives. In some respects, this role is a response to partnerships and opportunities mandated through the land claim or through government programs such as the Aboriginal Skills and Employment Training Strategy, Participation Agreement provisions and Procurement Agreement elements negotiated with government and industry as required by the Inuvialuit Final Agreement. Others result from the IRC using training funding to assist colleges or training institutes to deliver training and education.

### ***Partnerships***

The IRC has fostered strategic partnerships as a basis for achieving economic development within the region. In particular, it uses its political influence and legitimacy to support and manage community-based and Inuvialuit-owned business enterprises that wish to "go it alone" when undertaking innovative projects in partnership with government and industry or when accessing economic development funding opportunities.

At a political level, the IRC participates in initiatives such as development of territorial economic development approaches, lobbying government for economic opportunities, and politically supporting specific economic initiatives. Nationally, IRC works with the National Economic Development Committee of Inuit Nunagat, which conducts economic research and analysis specific to Inuit in Canada.

**Table 21: Economic, Training and Employment Partnerships**

| <b>Organization</b>  | <b>Initiative</b>                       | <b>Purpose</b>   |
|--|---|--|
| <b>National Economic Development Committee of Inuit Nunagat</b>                  | Research and policy change              | Baseline data for decision making; national lobby effort representing Inuit economic interests.  |
| <b>Government of Canada</b>  | Federal Procurement Strategy            | Ensuring procurement procedures respect land claim provisions respecting procurement processes in the Inuvialuit Settlement Region.<br><a href="https://buyandsell.gc.ca/policy-and-guidelines/supply-manual/section/9/35">https://buyandsell.gc.ca/policy-and-guidelines/supply-manual/section/9/35</a> |
| <b>Northern Contaminants Program; ArcticNet; Inuit Tapirisat of Canada</b>       | Various research projects               | Local employment: undertaking research in the Inuvialuit Settlement Region using local residents as research team members. This has resulted in an Inuit Research Advisor being housed in IRC.   |
| <b>Bow Valley College</b>  | Training to employment program          | Employment readiness training for Inuvialuit in Inuvialuit Settlement Region; Inuvialuit Career Center.  |
| <b>BHP Billiton Inc.</b>   | Mine Essentials – mine training program | Employment readiness training for Inuvialuit seeking work with BHP diamond mining operations.  |
| <b>Government of Canada - Aboriginal Skills and Employment Training Strategy</b> | Sunchild Program                        | E-learning program for Indigenous students<br><a href="http://www.sccyber.net">www.sccyber.net</a>   |

***Support for Subsistence Economy***

Significant efforts are expended to support where possible the subsistence economy and the skills central to Inuvialuit land relationship and cultural practice. As evidenced by such research as the IRC’s study on the economic life of an Inuvialuit household in Paulatuk, subsistence hunting, fishing and trapping have a significant economic importance for many in small isolated communities with small and stagnant economic bases. In such communities, country food harvests provide the main source of healthy food for many families due to the high cost of food and other necessities. Support for subsistence lifeways also assists in building “cultural capital”: land-based knowledge central to the effective functioning and decision making about the stewardship of lands and resources in ways that will contribute toward achieving the goal of the land claim relating to taking care of the land.

In many communities, where social suffering is also endemic, cultural and land-based activities can become as far out of reach as wage economy employment, due to social, cultural and family disruptions that can lead to physical and mental infirmities, loss of knowledge holders, and loss of skill sets. A number of long standing initiatives have developed over time to support individuals pursuing cultural and land-based pursuits. Examples range from yearly events that provide short-term and significant boosts to local employment, to small scale but ongoing financial support for land-based activities.

**Table 22: Economic Initiatives Drawing on “Cultural Capital”**

| <b>Organization</b>                               | <b>Initiative</b>                           | <b>Purpose</b>  |
|---|---|---|
| <b>GNWT Industry, Tourism and Investment /IRC</b> | Reindeer Herd                               | Local meat supply and employment.   |
| <b>Community Economic Development Office</b>      | Muskox Harvest                              | Local employment, regional meat supply, craft materials (muskox hair used for making wool).                                 |
| <b>GNWT/IRC</b>                                   | Hunter Assistance Plan, Take a Kid Trapping | Financial assistance to hunters and trappers to hunt and trap.  |
| <b>IRC</b>  | IRC Craft Shop                              | Material supply and point of sale for Inuvialuit art and artifacts.   |
| <b>Various (Industry, Government)</b>             | Environmental Monitors                      | Employing local residents to monitor wildlife.  |
| <b>Various (Universities, Government)</b>         | Research participants                       | Employing local research team members, traditional and land based knowledge holders to share and perform knowledge of land. |

### ***Government Policy and Statutory Authority***

Government departments’ and agencies’ programs resulting from policy or statutory authority that promote economic opportunity and development in the Inuvialuit Settlement Region include Industry, Tourism and Investment, Environment and Natural Resources, Canadian Northern Economic Development Agency, Western Arctic Business Development Services, Business Development and Investment Corporation, and Community Economic Development Office. These economic development organizations have various programs and services to assist with local, regional and territorial small and large scale projects and initiatives to promote economic development and employment in the Inuvialuit Settlement Region. Policies such as the Business Incentive Policy (GNWT) provide preferential advantage to Northern companies bidding on GNWT contracts.

The federal government mandates both preferential federal procurement processes with Inuvialuit companies as well as Participation Agreements between the IRC and industry within the Inuvialuit Settlement Region. Under the *Canadian Environmental Assessment Act*, Canada requires community benefit agreements between developers and local communities (Community Benefit Agreements).

### ***IRC Business and Economic Development Initiatives***

The IRC has an Inuvialuit Business List to assist companies seeking to do business in the Inuvialuit Settlement Region to locate qualified Inuvialuit product and service providers. In addition, the IRC’s Human Resources Department undertakes extensive planning and partnerships with industry to maximize employment and employment training opportunities with industry both in and outside of the region.

Through the Inuvialuit Development Corporation, the Inuvialuit have an extensive network of businesses and joint ventures positioned to take advantage of potential economic development opportunities in the region, as well as beyond the Inuvialuit Settlement Region. The Inuvialuit Development Corporation has a number of joint ventures with various partners, as well as having invested in major Northern transportation infrastructure such as the Northern Transportation Company and Canadian North Airlines.

### ***Strategic Responsiveness***

The Inuvialuit Development Corporation is cognizant of the need to position itself to be able to take advantage of economic opportunities and to be able to survive the boom/bust nature of a major economic factor in the region: the oil and gas industry. With that in mind, the Inuvialuit Development Corporation has diversified its portfolio of business interests. This also has the effect of ensuring ongoing and diversified employment and training opportunities for Inuvialuit beneficiaries over the long term.

The Inuvialuit Development Corporation views all of its business opportunities as potential sources of employment and experience for Inuvialuit beneficiaries and toward that end, works closely with the Human Resources Department of IRC to maximize the opportunities that arise. Working closely with IRC's Human Resources Department allows the Inuvialuit to leverage government employment and social welfare initiatives to maximize the impact of economic opportunities throughout the Inuvialuit Settlement Region.

### ***Social Development***

The social development activities of the IRC are in themselves of economic benefit to the region, drawing approximately \$14 million into the region annually, translating into employment benefits, purchase of goods and services, and increasing the potential of beneficiaries to achieve and maximize employment opportunities. Social development initiatives address social, mental, and physical wellness issues as well as social determinants of health more generally such as early childhood education, life skills, and health promotion and disease prevention programs. All of these contribute to decreasing issues that act as barriers to economic success or reducing costs of living, and reduce the potential costs of un-wellness to the region's economy. Social development programs make a direct and measurable contribution to better positioning Inuvialuit beneficiaries to become meaningful participants in the local, regional and national economy.

### ***Investment vs. Economic Development***

The IRC has made a deliberate decision to protect and preserve its land claim capital for future generations and to engage in a measured and targeted growth strategy. For this purpose, it created the Inuvialuit Investment Corporation, which is responsible for investing the land claim capital with the single goal of creating wealth through profit. Since 2008, the capital has grown by \$100 million to a value of over \$400 million. As a result, the IRC, as a corporation, is regarded as a major player in the national economy, with investment holdings throughout Canada and internationally. Given its goal of investment growth, this pool of capital is invested entirely outside of the Inuvialuit Settlement Region.

This investment success allows for political decision makers to focus on social and political issues that lie at the heart of the purpose of the land claim agreement. The wealth management policies, principles and staff overseeing its growth provides the political leadership with both peace of mind and security with respect to ensuring fundamental financial stability of the corporation and the land claim capital held in trust for all beneficiaries. This provides leadership with the freedom to focus on social development and community issues as they arise, and to focus energy on issues that have not enjoyed the same level of success as the IRC's financial investments.

## **13.5 Threats**

### *Social Issues*

Social statistics, which will be discussed in more detail in the next section, demonstrate that the Inuvialuit are experiencing levels of social suffering common to all Indigenous peoples in Canada. They are suffering intergenerational impacts of residential schools and ongoing impacts of colonization. That social indicators indicate that, in some respects, conditions have worsened since the signing of the Inuvialuit Final Agreement is a testament to colonization's power to reproduce social suffering despite the best efforts of governments to have Inuvialuit reconcile themselves to a colonized existence, rather than to provide Inuvialuit with substantive and material restitution for the harms that have been done to them and to change policies to end the sources of suffering, rather than continue to service the ongoing symptoms of bad policy.

This situation is a crisis threatening to undo all of the progress made to date by the IRC.

Inuvialuit beneficiaries collectively hold assets nearing in value about \$600 million. In one or two generations the IRC will be worth more than a billion dollars if the current rate of growth continues. Managing assets of this scale appropriately requires highly capable, self-confident, healthy people. The most rational approach to ensuring Inuvialuit are positioned to make the most of the Inuvialuit Final Agreement assets and potential would be to provide them with an excellent educational system and all of the social and health supports required for their physical, social and psychological wellness.

Instead, Inuvialuit children can look forward to being schooled in possibly one of the worst education systems in the country (See next section). There, they will be taught a curriculum where their culture and way of life are largely nonexistent or devalued, and they will experience constant encouragement to move away from the land and their attachment to it toward the norms of the dominant society. In school and outside they will be frequently confronted with negative stereotypes. They will be raised in substandard housing with too little or unhealthy foods, and cared for by parents who are themselves suffering intergenerational effects of residential schooling and colonization impacts. Their family and cultural opportunities may be rich and accessible, and the strength of the love of their parents and extended family will certainly instill hope and a sense of self-worth in them.

But as the statistics show, the negative influences of the dominant society coupled with the material and psychological difficulties pervading life in small isolated communities that are suffering colonization impacts often cannot be balanced by positive efforts. Thus, the school system and the circumstances within which it operates is unlikely to produce individuals prepared to steward a major corporation to greater economic success and positive social impact. In fact, given the adversity they face, it is an extraordinary achievement that any Inuvialuit students graduate from high school.

This situation is created largely by historic and current government policies controlling housing and food security, and cost and accessibility of the basic necessities of life. While the Inuvialuit Final Agreement may hold the potential for addressing many of these issues, social program efforts are often merely “band-aids” addressing the symptoms of bad policy, and its practical manifestations in the daily lives of the people rather than eliminating the sources of suffering.

Articulated by informants in many different ways was a consensus that the clearest threat to the fulfillment of the potential of the Inuvialuit Final Agreement and its goals are the social issues plaguing Inuvialuit communities. Interviewees were unanimous in their observations that solving these social issues is critical to achieving the goals of the Inuvialuit Final Agreement and that statistics show that while as a corporation the IRC is arguably a meaningful participant in the local and national economy, the Inuvialuit, at the level of individual people, are very far from achieving that goal.

As was also noted by informants, the IRC leadership spends approximately 80 percent of its time on social and political development issues. The IRC, as an organization, spends an enormous amount of time, effort, profit, and resources on programs intended to fix the social suffering among Inuvialuit and provide individuals with opportunities to better their lives and life chances. Progress is being made, and the IRC has accomplished a great deal. But the source of the problems – for example, government policies that induce people to remain unemployed in order to keep their homes – is rooted in policy outside of the IRC’s control. Until governments change their policies or engage in power sharing, decision making and resource sharing to a level that truly empowers individual Inuvialuit to be self determining over their own lives, social suffering is to be expected and will continue to be the most significant threat to fulfilling the Inuvialuit Final Agreement goals, as well as undoing progress to date.

### ***Land Claim Implementation***

The federal approach to implementing the Inuvialuit Final Agreement has improved markedly over the last few years following changes in federal personnel and with that introduction of a series of measures to ensure obligation fulfillment, tracking and progress. All informants having contact with federal implementation staff singled them out as being a key strength in making progress in implementation, including building strong relationships able to withstand disagreements and challenges. There are still policy-level issues from individual departments where Canada needs to improve its performance, including ensuring appropriate procurement processes are followed and with respect to establishing appropriate and clear policies concerning economic development, for example, guidelines with respect to Community Benefit Agreements in relation to offshore industry activity in the Inuvialuit Settlement Region.

The GNWT, on the other hand, insists that it has no land claim obligations under the Inuvialuit Final Agreement. Given the shift in power and responsibilities under the NWT Devolution Agreement that is now finalized, this situation promises to change. Informants expressed concern regarding GNWT's capacity to manage its new responsibilities with respect to land claim obligations and to the policy capacity, corporate expertise and institutional maturity necessary to manage the economically significant land claim obligations it will be undertaking as a result of the devolution agreement. Specifically, this relates to waste site clean-up, land management and associated procurement processes.

### ***Lack of a Viable Market Economy in Small Communities***

While the IRC and the Inuvialuit Development Corporation have demonstrated an impressive ability to make the most of economic opportunities, as the Paulatuk study shows, in some communities there is simply no viable economic base for a capitalist, wage-based economy that could even support small scale companies and businesses. In these communities, the most successful economic ventures are rooted in local skills and resources that are land and culturally based. As stated in the literature review, the economy of these communities is unique and cannot be comprehended or accommodated by economic development measures based on a theoretical capitalist market model that does not take Inuvialuit culture into account.

In small communities, people live in places that are linked to a way of life that is based in living off of the land as Inuvialuit within a web of social relations that is central to the community's specific economic logic. There is significant value to supporting individuals to live a land-based way of life as the knowledge and expertise they gain over their lifetimes are critical to maintaining the culture and functions as important information for decision-making over lands and resource management that is at the heart of the land claim agreement.

At the same time, modern technology and amenities have changed expectations around standards of living, as have government requirements with respect to basic living conditions and services that must be available to all Canadians. This ties Inuvialuit, not necessarily unwillingly, to a community and in so doing, the need for participation in the capitalist, wage-based cash economy.

The IRC and governments have attempted to address this reality through combinations of policy-based programs and measures responding to this unique situation, such as the GNWT and Inuvialuit Hunters' Assistance Programs. However, informants confirm that requests for assistance often outstrip its availability. In communities where adults willing to take wage employment are faced with a situation where there are no jobs to be had, transfer payments such as income support and similar programs are necessary to ensure survival and to provide the cash necessary to purchase hunting equipment and supplies that will enable them to get out on to the land.

Other measures include economic development initiatives such as the muskox harvest in Sachs Harbour, which provides intensive employment and the generation of meat and qiviut for the use

of artisans to produce saleable artifacts. Similar measures could encourage initiatives drawing on social and economic resources and strengths of such communities and their populations.

### **13.6 Summary**

A different approach needs to be taken to increase economic wellness in the Inuvialuit Settlement Region. Efforts to promote and provide economic opportunity are beyond land claim implementation on its own. Critical to a different approach is understanding that the characteristics of the “subsistence economy” in most small communities in the Inuvialuit Settlement Region should not be pathologized or interpreted as failed capitalism. Subsistence economy characteristics – such as that reciprocity rather than profit is the animating logic of economic activity – are understood as features of the system rather than issues or problems to be solved or disappeared. This understanding allows for economic approaches premised on features of the subsistence economy, rather than features of a non-existent market economy.



# 14. Social Development

## 14.1 Alignment with Inuvialuit Final Agreement Goals

This section seeks to answer the following four questions as set out in the evaluation framework:

- What have been the key social development initiatives undertaken since the settlement of the Inuvialuit Final Agreement?
- How effective was each initiative at supporting the Inuvialuit Final Agreement goals?
- To what extent have the Inuvialuit been able to leverage the settlement and other government programs to deliver social development services?
- How have external factors and circumstances impacted on social development efforts?

Throughout this assessment, social issues have been identified as a threat to making progress toward all Inuvialuit Final Agreement goals. Thus, IRC efforts relating to social development address all three goals:

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

**Table 23: Percentage of Households in Core Need in Inuvialuit Communities**

| Community     | Households in Core Need (2009) |
|---------------|--------------------------------|
| Aklavik       | 36%                            |
| Inuvik        | 20%                            |
| Paulatuk      | 53%                            |
| Sachs Harbour | 26%                            |
| Tuktoyaktuk   | 43%                            |
| Ulukhaktok    | 29%                            |

Source: NWT Housing Needs Survey 2009.

**Table 24: Socio-economic Snapshot of Inuvialuit Communities**

| Community     | Population (2010) | Employment Rate (2009) | Participation Rate (2009) | % Working 26+ Weeks in Previous Year (2009) | Average Employment Income (2008) | Households Consuming 50%+Harvested Meat/Fish (2008) |
|---------------|-------------------|------------------------|---------------------------|---|----------------------------------|---|
| Aklavik       | 658               | 36%                    | 53%                       | 53%   | \$29,109.38                      | 51%   |
| Inuvik        | 3552              | 71%                    | 79%                       | 78%   | \$52,123.19                      | 25%   |
| Paulatuk      | 336               | 47%                    | 55%                       | 54%   | \$25,700.00                      | 75%   |
| Sachs Harbour | 134               | 69%                    | 80%                       | 60%   | x                                | 62%   |
| Tuktoyaktuk   | 916               | 44%                    | 60%                       | 58%   | \$30,686.05                      | 63%   |
| Ulukhaktok    | 472               | 43%                    | 54%                       | 55%   | \$27,000.00                      | 63%   |

Source: NWT Bureau of Statistics; 'x' indicates a suppressed value. (Source: IRC 2012)

## 14.2 Literature Review

*What is treated in the Canadian discourse of reconciliation as an unhealthy and debilitating incapacity of Indigenous peoples to forgive and move on, is actually a sign of our critical consciousness, of our sense of justice and injustice, and of our awareness of, and unwillingness to, reconcile ourselves with a structural and symbolic violence that is still very much present in our lives.*<sup>167</sup>

Social suffering of Indigenous peoples in Canada is well-documented in the academic literature. Originally characterized as the “Indian Problem”, a phrase inclusive of all Indigenous peoples while at the same time pathologizing Indigenous suffering as an Indigenous trait rather than a colonial policy invention, it has only been in recent years that suffering has started to be recognized as issuing from state policy rather than an imagined Indigenous racial and cultural failure. The nature of suffering as resulting from policy is described in academic research relating to the Inuvialuit.<sup>168</sup> More broadly, Indigenous suffering in Canada as a phenomenon has been understood through theoretical paradigms such as historical trauma, intergenerational trauma, residential school syndrome, colonization and social suffering. These frameworks take into account the fact that living under the logic of colonialism writ large as well as the impacts of discrete events (such as residential schooling) and ongoing colonial policies and practices of the state, continue to reproduce suffering.<sup>169</sup>

<sup>167</sup> Coulthard, Glen Phd, (Yellowknives Dene), In Press (2014), *Red skin, White Masks: Rejecting the Colonial Policies of Recognition*, (Minneapolis: University of Minnesota Press).

<sup>168</sup> Inuvialuit Regional Corporation. 2012. *The Economic Life of Inuvialuit Households 2012 Paulatuk Study*; Irlbacher-Fox, Stephanie, 2009. Finding Dahshaa: Self Government, Social Suffering and Aboriginal Policy in Canada. Vancouver: UBC Press; Inuvialuit Regional Corporation. Mackenzie Gas Impact Fund Regional Investment Plan. Version 6.8, September 2008; Collings, Peter. 2005. *Housing Policy, Aging and Life Course in a Canadian Inuit Community*. Arctic Anthropology, 42:2 p 50-65.

<sup>169</sup> Chandler and Lalonde 1998; Samson, Colin, “A Colonial Double-Bind: Social and historical Contexts of Innu Mental Health”, in Kirmayer, Laurence, and Gail Valaskakis (eds). 2009. *Healing Traditions: The Mental Health of Aboriginal Peoples in Canada*. Vancouver: UBC Press. P 109-139; Kirmayer, Laurence, and Gail Valaskakis (eds). 2009. *Healing Traditions: The Mental Health of Aboriginal Peoples in Canada*. Vancouver: UBC Press; Alfred,

Reference to “colonial policy” in this report includes policies designed by governments that are based on no or minimal consultation with Inuvialuit and, policies that intentionally or unintentionally result in physical, social, economic or psychological harm to Inuvialuit or removes protective facts enabling Inuvialuit to cope with the impacts of colonization. Colonial policy is one dimension of colonization. Examples of colonial policy would include residential schooling or NWT Housing policy that promotes unemployment and continued dependence on government housing/programs. It is important to understand the extent and nature of colonial events and policies in order to fully appreciate the source of suffering and to be able to appreciate the scope of logical colonial policy outcomes. The Inuvialuit know, on individual and collective levels, what they have been through. Their experiences have been documented in research related to residential schooling, mental health, education, and in films such as “I, Nuligak”, which portray the impacts of contact, cultural removal by missionaries, capitalism as whaling, and colonial policy through the experience of an Inuvialuit leader, Nuligak, who ends his days in a tuberculosis sanitarium.

It is also important to understand the nature of policies based in colonial logic that result in harm to Inuvialuit and often remove protective factors. Fundamentally, colonial policy is about breaking the relationship between Indigenous peoples and their lands and resources. From the earliest days of colonization in Canada, policy has focused on cultural destruction, physical removal of Indigenous peoples from their lands and from their families and communities, and by turns forcing and enticing Indigenous peoples into adopting western-based economic and social models of existence. Once people are no longer on the land, the land no longer holds importance, and is no longer a source of culture, language and identity. Instead, it becomes characterized as a commodity or “thing” that can be used. In the present day, land relationship is encouraged only to the extent that it reconciles itself with the state’s ability to define the land as a commodity and to have the final say over how the land is used.

As a result, the remedies for social suffering are political, psycho-social, cultural and physical, and ultimately must be rooted in validating and promoting Indigenous land-based identity. To this end, the IRC has engaged in significant lobbying efforts and participation in political negotiations and policy development *fora* to address the roots of social suffering as well as the symptoms. As stated in previous sections, social suffering represents the single greatest threat to Inuvialuit achieving land claim goals. And that suffering to a large extent results from policy choices of Treaty partners.

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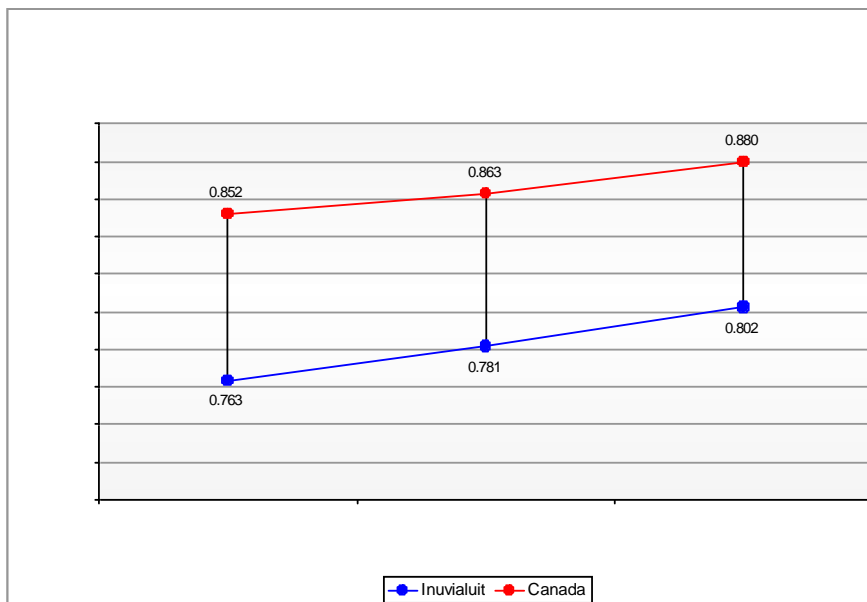
Taiaiake, 2005. *Wasase: Indigenous Pathways of Action and Freedom*. Toronto: Broadview; Alfred, Taiaiake. 2009. *Colonialism and State Dependency*. Paper prepared for the Communities in Crisis Project, Aboriginal healing Foundation; Irlbacher-Fox, Stephanie, 2009. *Finding Dahshaa: Self Government, Social Suffering and Aboriginal Policy in Canada*. Vancouver: UBC Press.

### 14.3 IRC Community Development Division

Social development initiatives have been at the forefront of IRC concern since well before the land claim was negotiated. The land claim itself was negotiated in part to establish a basis from which Inuvialuit could advocate for their own self-determination and establish tools with which to pursue their social, economic and cultural goals.

*The Inuvialuit Regional Corporation was established after the Inuvialuit settled their land claim in 1984. The primary goal of IRC is 'to continually improve the economic, social and cultural well-being of the Inuvialuit through the implementation of the Inuvialuit Final Agreement and by all other available means.' One of the corporate goals of IRC is 'the identification and successful implementation of economic, social, cultural, educational, training and employment programs that benefit Inuvialuit.' IRC achieves its cultural goals primarily through the Inuvialuit Cultural Resource Centre and the Inuvialuit Communications Society.<sup>170</sup>*

**Figure 25: Human Development Index Score - Inuvialuit Region and Canadian Average (1991 to 2006)**



<sup>170</sup> Retrieved From: [http://www.inuvialuitlivinghistory.ca/wiki\\_pages/Inuvialuit%20Regional%20Corporation](http://www.inuvialuitlivinghistory.ca/wiki_pages/Inuvialuit%20Regional%20Corporation)

The graph shows a positive trend for both populations over time but a notable gap between Inuvialuit and the general Canadian population is still present. While the gap between them is still notable, it has narrowed slightly between 1991 and 2006, driven primarily by improvements in the Inuvialuit education index score.<sup>171</sup>

This evaluation focuses on IRC social development initiatives over the last decade. Since the agreement was settled, the IRC has gone through progressive development phases. During the 1980s and 1990s IRC's focus was on establishing and implementing IRC co-management and corporate institutions. During this period, the IRC experienced a steep learning curve with respect to effectively managing land claim capital and new responsibilities under the land claim. The IRC experienced a period of instability. However, in the late 1990s, the IRC corporate governance model was revised and the IRC began to make significant strides toward establishing a stable and progressively responsible organization rooted in effective land claim implementation and equally effective business and investment practices.

Previous evaluations have documented ways in which the decade after the signing of the Inuvialuit Final Agreement marked an intensive period of planning activities between the IRC and governments, as well as the establishment of economic development and employment and training initiatives.

The Inuvialuit Social Development Program fund was implemented as a source of cash payments to beneficial shareholders. The Inuvialuit Education Foundation is responsible for providing educational support (scholarships, tutoring support, tuition and living expenses, stipends). Other initiatives, such as the Hunters and Trappers Assistance Program, were developed to assist Inuvialuit with specifically cultural and land-based pursuits. The Inuvialuit Communications Society and the Inuvialuit Cultural Resources Centre were established as arms-length institutions with a mandate to foster social and cultural development, promotion and retention.

Critical to effective social development has been the IRC establishing itself as a credible and effective representative political voice for both the Inuvialuit people and their social, economic and political interests. The IRC prides itself on taking a pragmatic approach to its place as part of the NWT and Canada. IRC's institutional stability and strategic and policy-driven approaches to its involvement in various initiatives has resulted in it receiving political recognition and participating in political development, establishing itself as a stakeholder and partner willing to engage in achieving solutions to issues and furthering initiatives that hold promise for serving Inuvialuit interests. Through its actions, IRC has developed a reputation as a stable organization, capable and willing to participate constructively in political development initiatives.

The resulting political currency has allowed the IRC to position itself as a staunch defender of Inuvialuit interests, resulting in tangible social benefits. For example, the IRC was instrumental in having Canada agree to establish a Social Impact Fund to mitigate potential impacts of the Mackenzie Gas Project. Under the Devolution Agreement, the Inuvialuit negotiated an agreement to participate in discussions over off-shore resource management and royalty sharing. Self-government promises to provide the Inuvialuit with extensive powers over social

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<sup>171</sup> Inuvialuit Regional Corporation. Mackenzie Gas Impact Fund Regional Investment Plan. Version 6.8, September 2008.

development program areas. Each of these is a political initiative that lays the foundation for and positions the IRC to exercise authority in planning and execution of social development initiatives critical to the future of Inuvialuit collectively and individually. In its dealings with other governments, the IRC is able to leverage its credibility as a strong, capable and stable institution in its dealings on matters political, economic and social.

**Table 25: Inuvialuit Regional Corporation – External Program Funding<sup>172</sup>**

| <b>Program Area</b>                                 | <b>Program Funding</b> |
|---|------------------------|
| <b>Community Development Division</b>               | \$14 million           |
| <b>Human Resources</b>                              | \$3 million            |
| <b>Inuvialuit Cultural Resource Centre</b>          | \$585,000              |
| <b>Inuvialuit Economic Development Organization</b> | \$441,500              |
| <b>Intergovernmental Relations</b>                  | \$1.5 million          |

**Table 26: Major Social Development Initiatives**

| <b>Initiative</b>  | <b>Description</b>   | <b>Funding Source</b> |
|--|--|-----------------------|
| <b>IRC Institutions</b>                                      | Est. 1984<br>Mandate: Administer the land claim assets and responsibilities  | IRC                   |
| <b>Co-management Institutions</b>                            | Est. 1984<br>Mandate: Undertake land and resource management decisions   | Canada, GNWT          |
| <b>Inuvialuit Development Corporation</b>                    | Est. 1977<br>Mandate: Economic development in the Inuvialuit Settlement Region   | IRC                   |
| <b>Inuvialuit Social Development Program</b>                 | Est. 1984<br>Mandate:  | IRC                   |
| <b>Inuvialuit Education Foundation</b>                       | Established 19xx<br>Mandate:   | IRC                   |
| <b>Hunters and Trappers Assistance Program</b>               | Established: 19xx<br>Mandate   | IRC, GNWT             |
| <b>Inuvialuit Communications Society</b>                     | Established: 1976 (as Inuit Okangit Inumgun)<br>Mandate: Publish Tuusayaksaat (English/Siglit) and produce television shows and special documentaries focusing on culture. | GNWT, Canada          |
| <b>Canadian and NWT Constitutional Development Processes</b> | Est. 1986 – 1995<br>Mandate: a series of First Ministers and NWT conferences establishing  | Canada, GNWT          |

<sup>172</sup> Interview N-5, N-10

|  |   |   |
|--|---|---|
|  | Constitutional rights recognition   |   |
| <b>Inuvialuit Cultural Resource Centre</b>   | Established: 1996<br>Mandate: To promote language use and development through production of language strategy/resources                 | GNWT, Canada, IRC   |
| <b>Human Resource Division</b>   | Est.<br>Mandate: Provide human resource function to IRC and promote employment and training in Inuvialuit Settlement Region             | IRC, Various partners   |
| <b>Community Development Division – IRC</b>  | Established:<br>Mandate:  | IRC, Various funders  |
| <b>Self Government Negotiations</b>  | Established: 1995<br>Mandate: Negotiate a self-government agreement with Canada and the GNWT  | Canada  |
| <b>NWT Devolution Negotiations</b>   | Est. 2000<br>Mandate: Participate in negotiating an NWT Devolution agreement with Canada  | Canada  |
| <b>Beaufort Delta Regional Council</b>   | Established: 2001<br>Mandate:   | IRC   |
| <b>Residential School Apology and Claim Resolution Process</b>                     | A process whereby beneficiaries received recognition, compensation and support for residential school impacts                           | Canada  |
| <b>Truth and Reconciliation Commission</b>   | A process where beneficiaries' experiences of residential schooling became part of the national public record                           | Canada  |
| <b>Social Planning Associated with Resource Extraction (Mackenzie Gas Project)</b> | Est. 2008<br>Mandate: Develop a comprehensive Mitigation Plan for the Mackenzie Gas Project as per Social Development Fund requirements | Canada  |
| <b>IRC Social Policy Research</b>  | Est. 2010<br>Mandate: Conduct in partnership with external organizations and academics, social policy research; statistical database    | Various   |
| <b>IRC Cultural Education Initiatives</b>  | Est. 2010<br>Various partnerships with museums internationally; development of Inuvialuit curriculum and resources for schools          | IRC; External partners such as the Smithsonian, Prince of Wales Northern Heritage Centre, Canadian Museum of Civilization |
| <b>Participation in NWT Social Policy Planning Initiatives</b>                     | Shelter Review; Anti-Poverty Strategy; Economic Development Strategy Consultations, etc.  | GNWT  |

## **14.4 Strengths**

### ***Political and Institutional Credibility***

The IRC has established a stable, functional organization based on bureaucratic and capitalist market based principles, tempered by Inuvialuit social and cultural norms. Its unique character derives from its status and corporate culture rooted in the Inuvialuit Final Agreement and the way of life of the Inuvialuit as a people. Its organizational stability is supported substantially by its financial stability and business success. These have been created in part by the IRC leadership making astute and sound decisions with the assistance of professional accounting, finance and investment staff performing in accordance with the national standards for their professions.

The political and institutional credibility possessed by the IRC opens doors that may be shut to others. Often Indigenous governments are beset by issues arising from an entwining of business and politics and a lack of professional staff to undertake program delivery or capable of managing professional staff complements. The IRC has, since the 1990's, established political mechanisms and an organizational structure which insulates its long term goals and day-to-day operations from any political issues or instability that may arise. This positions the IRC to work in partnership with government, for example, on pilot projects testing program delivery innovations or new partnership approaches. It also provides officials with the ability to specialize and expand their scope of practice in their program areas, allowing IRC officials to participate in territorial and national initiatives with a focus and depth that officials of other organizations may not be resourced or mandated to achieve.

This credibility also translates into the IRC being an attractive partner for external organizations, including governments, to partner with on various initiatives. For example, the IRC has worked with a variety of museums around the world on cultural artifact identification and preservation (Smithsonian; Prince of Wales Northern Heritage Centre); as a partner with major academic research networks (Resource and Sustainable Development in the Arctic, Social Economy Research Network of Northern Canada, ArcticNet; Centre for Indigenous Peoples' Nutrition and Environment), on infrastructure initiatives (Aboriginal Pipeline Group; Mackenzie Valley Highway) and political development (Beaufort Delta Regional Council; NWT Devolution negotiations; Inuit Tapiriit Kanatami). In these initiatives, the IRC acts as a full and equal partner with specific goals and objectives that the partner-based initiatives serve to accomplish.

As a precursor to economic success, the IRC's institutional stability has also afforded it significant advances in working with industry on initiatives impacting investment, business development, employment and training.

### ***Political Development Participation***

The IRC has been a major player in all NWT political development initiatives since its establishment, often leading the way with respect to developing political development proposals and approaches to issue resolution. The Inuvialuit Final Agreement was the first Indigenous land claim to be signed in the NWT. The IRC was a leading force in the development and establishment of the Beaufort Delta Regional Council, a forum for all governments in the



Western Arctic to share information and work together to lobby governments on issues of common concern. During Canadian and NWT Constitutional talks at the national and territorial levels in the 1980s and 1990s, the IRC played a major role in discussions and joint decision-making.

Currently, the IRC is engaged in self-government negotiations as a result of government policy. It is also engaged in ongoing negotiations issuing from the finalized NWT Devolution agreement. Its participation in political development initiatives expands the IRC's scope of authority with respect to establishing a legitimate statutory basis from which Inuvialuit can govern Inuvialuit peoples, lands and resources, as well as establishing ways in which Inuvialuit authority interacts with and delimits the authority of other governments within Inuvialuit territory and lives. For many aspects of governance, this approach is critical, as generally government policy does not allow for situational responses specific to Inuvialuit. Instead, territorial or national level policies are applied, which may be more or less relevant to Inuvialuit but certainly not specific to the Inuvialuit situation.

Participating in political development initiatives reconfigures political relationships in ways that enhance the IRC's authority, positioning it as a legitimate authority with respect to taking on additional program authorities and responsibilities in relation to its people and territory. This power is an essential tool in a larger project of ongoing self-determination, a multifaceted project that involves economic, social, political, legal, and cultural dimensions.

### ***Cultural Institutions***

Two key cultural institutions are the Inuvialuit Communications Society and the Inuvialuit Cultural Resource Centre. The Inuvialuit Communications Society is an independent, arms-length institution while the Inuvialuit Cultural Resource Centre is accountable to the IRC for culture and language development. This structure has resulted in the institutions pursuing cultural programming and cultural resource development in line with the advice of their own boards or cultural experts. The organizations have the ability to address specific needs and issues as they arise, in accordance with the judgment and advice of their professional and culturally knowledgeable staff.

The organizations have also developed into a community and regional resource removed from politics or political agendas and in that sense are viewed as a-political and therefore retain their credibility as cultural institutions, both among beneficiaries and among external agents. This has the benefit of these institutions being able to seek core and project funding as separate entities rather than as a department of IRC but which may, in some instances, disadvantage them with respect to competing for core funding with other cultural institutions.

In fact, the Inuvialuit Cultural Resource Centre was established initially in response to government program funding availability for cultural centres per se rather than to Indigenous organizations seeking cultural programming funding. Cultural centre funding and Aboriginal communication society funding continue to provide for the core operating costs of the two organizations.

### ***Beneficiary Employment and Benefits***

The different sections of this report describe how, in various ways, beneficiaries individually and collectively benefit from the IRC and its activities and initiatives. The IRC employs a significant number of Inuvialuit beneficiaries through its activities, businesses and initiatives, providing millions of dollars in employment each year along with contributions to community and cultural initiatives and events.

The Human Resources Department has successfully completed a large array of programs focused on skills training and education and continues to actively seek to strengthen existing partnerships and develop new ones. It has taken an approach to education that requires education providers receiving IRC education funding to provide programs in accordance with IRC beneficiary needs and IRC strategic goals. The Human Resources Department has also begun to develop partnerships with industries in the NWT operating within and outside of the Inuvialuit Settlement Region to jointly sponsor training-to-work programs for beneficiaries.

The Human Resources Department is conscious that while its programs target specific needs and skill development, often beneficiaries returning to the work force as a result of skill training will gain enough skills, confidence and success to want to continue toward greater educational goals. Thus, its approach fosters not only skill-specific training, but a whole-person approach that fosters individual-self development and self-sufficiency.

### ***Cultural Diffusion***

As discussed in previous sections, the IRC's programming and corporate approach is one that relies on staff to exercise their discretion in incorporating cultural knowledge, norms, and content in the course of their work. As a result, Inuvialuit cultural knowledge and norms are diffused throughout IRC operations. Support for cultural and land-based activities in terms of funding, political support and material support is ongoing, reliable and innovative. Cultural expertise, in terms of cultural knowledge and academic cultural understanding is available through the Inuvialuit Cultural Resource Centre and drawn upon by IRC as required.

The ways that Inuvialuit culture influences IRC's programs and its operations is an organic process issuing mainly from having Inuvialuit working within the IRC and exercising their responsibilities and authorities in accordance with cultural knowledge and social norms. Having staff who work with and are themselves connected to Inuvialuit cultural life guarantees that cultural influence is prominent in IRC's operations.

### ***Research and Policy Development***

In recent years, the IRC has been developing its internal research and policy development capacity. This has allowed it to undertake independent research in response to pressing policy issues, as well as partner with academics and research institutions to shape external research programs to achieve outcomes desirable to Inuvialuit. This research capacity has allowed the IRC to develop program and project proposals to external funders as well as to better understand its own situation generally and, in so doing, better prepare its officials responsible for social

program administration and development to work with partners to develop approaches targeting Inuvialuit priorities.

The Mental Health and Addictions study was one of the first studies undertaken by the Inuvialuit that resulted in piloting programming targeting Inuvialuit priorities. Additional significant research projects have included a study on social housing<sup>173</sup> and the economic life cycle of Inuvialuit households in Paulatuk.<sup>174</sup> In addition, the IRC has funded the GNWT to collect statistical data for Inuvialuit. Not least has been the establishment of the Inuvialuit social indicators web site, which allows for a multifaceted longitudinal understanding of social indicator results with respect to a wide range of issues affecting Inuvialuit.

All of these efforts enhance the IRC's ability to provide legitimate and culturally appropriate programs and services that are trusted by beneficiaries. This positions the IRC to promote partnerships between communities and external research and program delivery organizations seeking to work in the Inuvialuit Settlement Region. It also allows the IRC to lobby governments, in particular by providing high quality evidence-based research for seeking policy change in Inuvialuit communities.

## 14.5 Threats

### *Residential School and Colonization Impacts*

As discussed in the literature review at the beginning of this section, residential school impacts and ongoing impacts of colonial policies have been documented extensively in various literatures, as discussed above, and are evident throughout the Inuvialuit Settlement Region. Extensive research completed by the IRC in recent years, such as the research on mental health and addictions, has drawn clear correlations between residential school experiences and their intergenerational effects and the social challenges in Inuvialuit communities. These impacts are complex and holistic in their effects. They manifest as material conditions of poverty and associated food and housing insecurity, lack of available employment opportunities, and limited educational opportunities. Psychological impacts of these conditions are significant, leaving individuals with feelings of marginalization, hopelessness, guilt, anger, worthlessness, and other negative emotional outcomes.

The IRC has identified specific policies that contribute to this situation and through its social policy research efforts, political lobbying and negotiations, and participation in policy development *fora*, is seeking to change the fundamental circumstances that give rise to social suffering in communities.

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<sup>173</sup> Inuvialuit Regional Corporation. 2011. Social Housing Policy in the ISR. Inuvik.

<sup>174</sup> Inuvialuit Regional Corporation. 2012. *The Economic Life of Inuvialuit Households 2012 Paulatuk Study*.

## *Social Determinants of Health*

As noted in the Paulatuk Study (also known as the Economic Life of an Inuvialuit Household, 2011), social determinants of health play a significant role in the overall physical and mental health of Inuvialuit. In determinants such as employment availability, food and housing security, and education, Inuvialuit are generally well below NWT averages. In particular, the Paulatuk study noted that for those under the age of 35, conditions are particularly difficult, echoing findings of earlier academic research conducted with respect to housing. These findings indicate that younger Inuvialuit are generally without adequate cultural knowledge or material equipment essential for subsistence hunting, lacking in educational attainment, less likely to be allocated housing for their young and growing families, and less likely to have experience in combination with education to qualify them for employment in their communities. This is in contrast to older community members, who may hold the few permanent jobs that may or may not require education, have land-based knowledge and skills, and are past their child bearing and rearing years and thus do not have the pressures associated with a young and growing family.<sup>175</sup>

The state of most social determinants of health is a result of a combination of difficult economic conditions, inadequate government policy, inadequate programs, economic transfers administered by both government and the IRC in combination with colonization impacts that render many residents a higher risk for social, mental and physical health issues.

As with colonization impacts, social determinants of health are a combination of factors that are often intertwined and mutually reinforcing. However, social determinants of health are generally within the control of government policy makers responsible for stewarding the shared societal resources for the benefit of all populations. To that extent, that some populations within societies have greater difficulties in meeting basic needs, policies that are not aligned accordingly result in systemic failures. Previous sections of this report have highlighted the fundamentally unique characteristics of a subsistence economy versus a market economy. To a large extent, government policies and institutional practices continue to operate as though communities had market rather than subsistence economies.

### *Educational Attainment*

Generally, indicators show that educational attainment in Inuvialuit communities lags far below that of the Canada and the Northwest Territories, with those having high school education or better hovering at about 40 percent<sup>176</sup> Educational attainment results show that in small communities in the NWT, more than 60 percent of students are functioning below grade level in math and English.<sup>177</sup>

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<sup>175</sup> Collings 2005.

<sup>176</sup> ISR Indicators Website, 2011

<sup>177</sup> Government of the Northwest Territories: Department of Education, Culture and Employment. July 2013. 2012 Student Assessment Results. As accessed at: <http://news.exec.gov.nt.ca/wp-content/uploads/Backgrounder-2012-Student-Assessment-Results.pdf>

As noted in the Paulatuk study, educational attainment is perhaps the most significant protective factor with respect to poverty and ill-health. For most employment in the region, both locally and on a fly-in/fly out basis as for the oil, gas and mining industries, high school educational attainment and associated numeracy and literacy skills are essential, even for entry-level positions.

Lack of educational attainment has been the subject of various studies in the Inuvialuit region. The Inuvialuit have made significant efforts through both the Inuvialuit Cultural Resource Centre and the IRC to develop relevant cultural, language and social science curriculum aimed at making educational approaches more culturally relevant. In addition, the IRC works in partnership with the GNWT via Beaufort Delta Education Council and Canada on a variety of initiatives, including early childhood education and nutrition programs.

The IRC lends its support to various youth and child-focused initiatives in the community as a way to promote the conditions socially and at an individual level that improve the chances of youth educational attainment. For example, the IRC Community Development Division has hired a beneficiary to work on suicide prevention and wellness among Inuvialuit youth. The IRC also maintains a supportive focus on youth through its corporate sponsorships under the Inuvialuit Development Corporation and its various companies. These range from cash and in kind donations for youth-oriented activities to offering on the job training and developmental positions within the Inuvialuit Development Corporation-owned companies. The Human Resources Department at IRC also engages in various training-to-employment and work skills programs that maintain a focus on Inuvialuit youth. The Inuvialuit Education Foundation focuses specifically on providing supports to students at the post-secondary level.

The IRC has recognized lack of educational attainment as a significant barrier to success at the individual level; it has also recognized that a variety of social and wellness factors impact the potential for educational success. Despite its best efforts, efforts that are increasingly diverse and literally spanning cradle to grave, and with respect to both land-based and market-based skill development, educational attainment continues to limit the potential for the future of the IRC and the potential of Inuvialuit collectively and as individuals.

### ***Economic Insecurity***

Economic insecurity has been noted in various reports and studies on Inuvialuit as a critical factor in impeding economic and social gains in the region. Economic insecurity is the risk of economic loss and hardship as individuals are confronted with the social and economic realities they face. As noted in the Paulatuk study, generally in small, geographically isolated Inuvialuit communities, residents rely on a combination of subsistence, wage, and “transfer” payments in order to meet their basic needs.

Creating economic dependency was a foundational outcome of Canadian sovereignty efforts after World War II, when federal interventions in the North were characterized by the establishment of a suite of social welfare programs intended to assimilate Inuvialuit socially, culturally and economically. In a departure from nomadic practices of Inuvialuit, permanent settlements arose from a combination of service provision by both Church and State, in a bid to

create a northern society mimicking that of southern Canada. Unfortunately, permanent settlements not only disrupted the ability of people to engage in their usual seasonal rounds, they also did not offer viable occupational alternatives to residents.

This situation was combined with the impacts of colonization and, in particular, residential schooling, which cannot be underestimated as agents severely altering and negatively effecting social and cultural wellness and creating conditions conducive to poverty and its attendant social issues.

Economically, dependency now manifests as a sector of the economy called the “transfer” economy – that sector composed of government transfer payments, such as income support, housing provision, and similar allowances and programs. The transfer economy is inherently unstable in two senses: programs are policy-based and thus subject to change; and in the sense that policies and program access criteria often undermine efforts of individuals to better their material situation by jeopardizing their ability to meet their basic needs if they choose employment, move for education or training, etc.. This is true in the case of housing policies, where residents reported refusing employment as they would lose their housing allocation or subsidy and be unable to support their families.<sup>178</sup>

Until sufficient protective factors can be fostered (e.g., strengthening the ability to participate in the subsistence economy), economic insecurity and its attendant poverty will continue to be a significant threat to societal wellness.

### ***Unstable and Opportunistic Program Funding***

The IRC has a variety of programs funded by both Canada and the GNWT on a fiscal year basis that are proposal-dependent. Each program-based contribution agreement includes various reporting requirements which are not standardized and also may change yearly. This results in a significant administrative burden for the IRC. In addition, the proposal basis on which funding is awarded undermines the IRC’s ability to either plan beyond one year time horizons or develop capacity within a focused area of client needs and program development.

Proposal-dependent funding is an unstable and destabilizing type of funding, in contrast to multiyear and core funding. Multiyear and core funding provide for long term planning, capacity development and stability in identifying and addressing program needs. In some cases, this approach to funding has been taken. Where such approaches have been taken, IRC staff report a greater ability to accomplish goals and to work with stakeholders effectively toward addressing client needs.

Staff also reported that funding is seen largely as opportunistic rather than officials being able to work with governments to access funding in accordance with IRC strategic goals. This means that often funding accessed may come with requirements for deliverables and approaches that may not align with what is needed by program clients. The IRC is forced to alter its program delivery approaches and expend additional efforts to ensure that program offerings meet the goals of both the funders and the IRC.

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<sup>178</sup> IRC 2011

## **14.6 Summary**

The IRC's institutional stability positions it to credibly and ably provide social policy programs to its beneficiaries on behalf of and in partnership with other external organizations. Notably, it has begun significant work on identifying and gathering statistical data as a basis for institutional program focus and delivery. What undermines Inuvialuit progress toward the social goals of the land claim lies mostly outside of the control of the IRC. In particular, colonial policy-induced social suffering poses a significant near-term and long-term threat to the Inuvialuit Settlement Region's social development, the institutional development and stability of the IRC, and the potential for future generations to continue the impressive success of the IRC to date.

## ***Section Three: Conclusions and Recommendations***

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## 15. Conclusions

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### 15.1 Federal

Canada has established eight stand-alone comprehensive land claim agreements and 16 comprehensive land claims with related self-government agreements, which cover over 40 percent of Canada's land mass. These agreements have established an ongoing relationship regarding Aboriginal rights and title in Canada. The implementation of modern treaties remains aligned with federal government priorities, roles and responsibilities.

Where modern treaties have been concluded, they aid Canada in better managing the reconciliation of s.35 rights based upon negotiated outcomes rather than court-dictated outcomes. In this way, modern treaties have made an important contribution to minimizing court disputes concerning rights and title and have produced valuable and positive results for government, Aboriginal communities and the broader Canadian society. Evaluation findings suggest, however, that the current s.35 policy framework is not fully responsive to the evolving legal framework.

Modern treaties provide a number of mechanisms through which they support economic development. The formalization of property rights helps individuals derive full benefits from the ownership of resources, which allows for the maximization of gains from trade and supports other transactions in the economy. In addition, modern treaties provide for direct capital transfers to beneficiary organizations which have the potential to support investment activity, as well as social and educational initiatives with possible long-term economic benefits. These benefits represent significant progress towards the modern treaties immediate expected outcomes. Specifically, the agreements provide structures for clear and formalized land ownership leading to well understood rights regarding management and access. In addition, the formalization of property rights also provides certainty of ownership and contributes to a more stable economic environment.

Social and economic indicators, however, suggest that Aboriginal signatory groups lag behind both the non-Aboriginal population and the Aboriginal identity population in education, income, and labour force characteristics, all which are important to full participation in the Canadian economy and society. There remains a critical lack of ongoing monitoring and analysis regarding the impacts of modern treaties to fully understand the progress being made.

Agreements and side agreements provide the structures to support the intermediate outcomes. Structures for governance, programs and services, land and resources are strongly in place, with structures for economic development in place but not being included in all agreements. Though these structures are in place, one of the key challenges remains the perception that modern treaty obligations have not been fully implemented resulting in barriers to progress. Additional analysis, specifically related to how well the federal government is implementing the provisions contained in modern treaties, needs to be undertaken.

## 15.2 Inuvialuit

The Inuvialuit Final Agreement goals have not been defined by Treaty partners in terms of measurable benchmarks. It cannot be said that the Inuvialuit Final Agreement goals have been achieved. This is due to the fact that the goals are not quantifiable; their fulfillment is constituted in part by their very pursuit. They have not been defined in quantifiable terms in the Inuvialuit Final Agreement or by the Treaty Partners. The goals are not static or event-based; they cannot be “accomplished”, with the Treaty partners then free to move on to other things. Instead, the Inuvialuit Final Agreement goals require ongoing effort to establish solid institutional, economic, cultural and social foundations that will provide a measure of stability ensuring Inuvialuit may work toward accomplishing these goals despite changing contexts and circumstances. These are iterative rather than static goals.

Significant progress has been made toward establishing and building on the foundational strengths that are necessary precursors to the Inuvialuit Final Agreement goals being achieved.

Preservation of Inuvialuit cultural identity and values within a changing northern society:

- Establishment of the Inuvialuit Communication Society and Inuvialuit Cultural Resource Centre focused on language and cultural development and preservation;
- Community-based cultural practices such as Inuvialuit drummers and dancers, annual festivals and activities, special events, and support for culturally-focused programming;
- Mandating and supporting cultural perspectives, consensus-building and local involvement in all key policy-making and decision-making processes; and
- IRC institutional and financial support for Inuvialuit cultural initiatives.

Inuvialuit as equal and meaningful participants in the northern and national economy and society:

- Establishment of Inuvialuit Regional Corporation, Inuvialuit Development Corporation, Inuvialuit Investment Corporation, Inuvialuit Land Corporation;
- Institutions that are stable, credible, and professionally managed;
- Establishment of the Inuvialuit Regional Corporation’s human resources office and community development division;
- Significant economic success and influence in the Inuvialuit Settlement Region, territorially and nationally;
- Participation in social and political development initiatives at the regional, territorial and national levels; and
- Significant employment, education and training opportunities.

Protection and preservation of Arctic wildlife, the environment and biological productivity:

- Establishment and ongoing development of the co-management system;
- Establishment and ongoing development of the Inuvialuit Land Administration system; and
- Participation in local, regional, subject-specific and national environmental research, monitoring and decision making.

Stable, credible, highly functional institutional structures are in place at the corporate level that position the Inuvialuit Regional Corporation to work toward realizing the Inuvialuit Final Agreement goals. The Inuvialuit Regional Corporation has achieved some significant successes, most notably with respect to wealth management and economic development initiatives. This corporate level wealth and economic stability has provided it with a measure of freedom to devote significant political and institutional resources to addressing social and political issues.

This necessary emphasis on addressing social issues is motivated by the extremely difficult social and economic circumstances faced by Inuvialuit living in the small communities of the Inuvialuit Settlement Region. This situation is made that much starker when viewed against the organizational stability and political and economic success at the corporate level. This dichotomy is therefore resulting in two very different types of challenges for the Corporation.

The first is that the Corporation's institutional stability and economic success is threatened, mainly by the opportunity costs created by its resources being required to address social issues such as housing, education and health issues. These opportunity costs consist of efforts of the Inuvialuit Regional Corporation's staff and leaders on advocacy, seeking solutions, lobbying governments, conducting research and delivering programming.

The second challenge is that the socio-economic conditions faced by a majority of Inuvialuit Regional Corporation shareholders means that many Inuvialuit are not being positioned to gain the skills and experience required to ensure the continued success of the Corporation and its socio-economic interests. In the next couple of generations, the Inuvialuit Regional Corporation will have a host of complex political, economic and social responsibilities and opportunities at its disposal from self-government to resource revenue sharing to business opportunities and investment profits. Its net worth is likely to exceed the billion dollar mark. Yet, Inuvialuit students – the future generations - living in small communities are provided with schooling that can only be described as being at crisis levels of failure. Government's social policies seem to be completely disconnected from Inuvialuit social, political and economic potential, or circumstances, as well as the Inuvialuit Regional Corporation's demonstrated capabilities. If the land claim potential is to be fulfilled, if Inuvialuit Final Agreement goals are to be achieved, government must decide to stop limiting and undermining the Inuvialuit's success and instead correlate government social and economic policy choices with concrete and strategic goals and success benchmarks, not least of which should be tied directly to the Inuvialuit Final Agreement goals.

Government is without its own strategic goals in relation to Inuvialuit Final Agreement implementation. Fulfilling land claim obligations is contractually required. However, fulfilling the land claim goals requires attention to the context of land claim implementation that is created, in part, by government policy. In establishing its own strategic goals, government must consider the land claim goals, the social context of land claim implementation, and premise its economic development approaches on a subsistence economy model that dominates small communities of the Inuvialuit Settlement Region. Over the last several years, particularly since staffing changes in AANDC's Implementation Branch, significant progress has been made with respect to implementing land claim obligations. AANDC has demonstrated it is capable of establishing a respectful implementation relationship, and that its implementation officials can achieve positive results. However, it is no longer possible to pretend that land claims are implemented and can achieve their stated purposes in isolation from the social and economic conditions in which land claim organizations function. And, it must be acknowledged that those social and economic conditions can either foster or undermine the achievement of land claim goals.

One of the unintended impacts of implementing the land claim, from an Inuvialuit Regional Corporation perspective, relates to the seeming inability of government policy to evolve alongside the increasingly capable and responsible Inuvialuit Regional Corporation institutions developing to implement the land claim. It is important to note that several factors constituting threats to the success of land claim implementation are ones that governments can resolve. Particularly in the NWT, as devolution, land claims and self government agreements draw Treaty Partners into ever-closer relationships, it will be increasingly important that fundamentally problematic approaches to program funding and administration be resolved to better support institutional stability and progress.

### **15.3 Overarching**

The evaluation found that comprehensive land claims and self-government agreements have put in place structures for governance, program and services, land and resource management, and economic development. In the case of the Inuvialuit, the stable, credible, highly functional institutional structures that are in place at the corporate level, position the Inuvialuit Regional Corporation to work towards realizing the Inuvialuit Final Agreement goals. It is unlikely that the corporate structures would have been formed in the absence of the Inuvialuit Final Agreement.

One of the challenges remains the perception that modern treaty obligations have not been fully implemented resulting in barriers to progress. This is supported by social and economic indicators that suggest that Aboriginal signatory groups lag behind both the non-Aboriginal population and the Aboriginal identity population in education, income, and labour force characteristics. The Inuvialuit component evaluation found that the Inuvialuit Regional Corporation's institutional stability and economic success is threatened mainly by the opportunity costs created by its resources being required to address social issues. Socio-economic conditions faced by a majority of its shareholders means that many Inuvialuit are not being positioned to gain the skills and experience required to ensure the continued success of the Corporation and its socio-economic interests.

## 16. Recommendations

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### 16.1 Federal

1. Review the recommendations stemming from the Inuvialuit component and provide comments on behalf of Canada to the Evaluation, Performance Measurement and Review Committee on the Inuvialuit recommendations.
2. Continuing with the Implementation Change Agenda, strengthen the “whole of government approach” to monitoring and implementing treaty obligations and risks.
3. Undertake a research agenda to support the monitoring of the impacts of modern treaties.
4. To improve results-based reporting, coordinate the ongoing monitoring of the effectiveness of the implementation of modern treaties.

### 16.2 Inuvialuit

#### *Ownership, Access to, and Managing Lands and Resources*

1. Canada improves and streamlines its processes relating to its roles of appointments and decision-making with respect to environmental regulatory responsibilities and decision making in the Inuvialuit Settlement Region;
2. Canada takes into consideration the high costs of operations in the Inuvialuit Settlement Region when determining funding allocations for co-management and land administration;
3. Canada considers a multi-year funding approach to co-management boards. This would cut down on the administrative burden on the IRC and Inuvialuit Game Council and Joint Secretariat. Since the boards are integral to land and resource management and are land claim obligations, and since Canada and the IRC have extensive experience in implementing this system and are well aware of the demands made on it under varying circumstances, stabilizing funding over longer time horizons would mitigate some of the administrative and capacity issues identified as problematic;
4. In consideration of the effects of its recent environmental legislative changes, which in effect shift the burden for environmental assessment-related research from government departments onto co-management boards, Canada should consider increasing funding allocations to the boards in order that they may fulfill their new responsibilities; and
5. Canada works with the IRC and GNWT to ensure that devolution does not negatively impact the current functionality of the co-management and land administration system; in particular, Canada should ensure that the GNWT has the administrative and policy capacity to work effectively with the Inuvialuit Settlement Region regime.

### ***Cultural Vitality***

6. Canada and GNWT conduct a review of the IRC cultural programs and consider providing IRC with multi-year core program funding to reduce the financial and administrative burden of IRC having to seek yearly project-based funding to provide cultural-related programming;
7. That Canada and GNWT adopt an Empowerment Model program funding approach; and
8. That GNWT adopts clear Inuvialuktun language instruction goals and benchmarks within its education system, and works with the IRC and Inuvialuit Cultural Resource Centre to establish appropriate monitoring and enforcement mechanisms, and adopt regular program reporting to track progress.

### ***Institutions and Decision Making Processes***

9. IRC and governments undertake an audit of social programs with a view to determining how these programs relate to one another, and how they impact social determinants of health in the context of the subsistence economy found in most small communities in the Inuvialuit Settlement Region;
10. Governments consider developing a block funding “trigger”, where organizations such as the IRC that receive significant levels of funding for social programming and meet other relevant criteria (e.g. stability, track record, experience) receive a multi-year block funding agreement instead of operating on yearly/proposal basis; and
11. Governments and the IRC utilize existing *fora* to work together to design work plans and benchmarks with respect to achieving specific tangible goals as a way to reach agreement on program orientation and funding criteria.

### ***Economic Opportunities***

12. Canada and the IRC undertake further research based on the subsistence economy model as described in Usher *et al*, involving expert advisors to devise data collection instruments. This research should include a component which assesses the relevance and fit of current economic development programs and opportunities and associated education and training initiatives with the reality of a subsistence economy in small Inuvialuit Settlement Region communities;
13. The biggest threat to IRC’s near term economic progress is social suffering endemic in Inuvialuit Settlement Region communities, in particular housing inadequacy, low educational attainment, and mental, social and physical pathologies. This suffering in particular results in part from social policy programs not meeting needs. Social policies must fit with the reality of the Inuvialuit Settlement Region and small communities. Territorial approaches and even regional approaches have not been working.

Governments must consider working with the IRC to design social program policies that are relevant to the social and economic conditions of Inuvialuit Settlement Region communities. Social policy failures have reached crisis proportions and those policies require urgent and tailored revision;

14. Within the next two generations, the IRC and its companies will be worth more than \$1 billion. Based on social and, in particular, educational statistics, beneficiaries expected to oversee the management of the wealth and institutional authorities will be ill-prepared to steward either to its maximum potential. Poor social policy choices of governments now threaten to gut the progress made by the IRC over the long term, and this could have a potential significant destabilizing effect on the regional and territorial economy. Governments must work with the Inuvialuit to determine immediate and long-term social policy adjustments required to ameliorate this situation; and
15. Canada and the GNWT must work with the IRC to ensure that the GNWT possesses the policy and technical capacity to take on its responsibilities under devolution with respect to administration of lands and resources, and that it is capable of discharging transferred land claim responsibilities and obligations as a result of the devolution agreement.

### ***Social Development***

16. In the name of transferability and standardization, social programs, education in particular, is predicated on delivery models where ensuring standardization and transferability between schools and jurisdiction is a primary value. This has not only prevented local solutions, it has produced an education system that neither makes sense locally, nor produces students whose grade level functionality allows for transferability to other regions in the NWT let alone to other jurisdictions. The only standardization occurring in the current approach is that in small communities, it is standard for up to 60 percent of students to be performing below grade level. The education system is in crisis. No review or overhaul of education in the Inuvialuit Settlement Region will have a positive impact if it is conducted without the full and fully resourced participation of the Inuvialuit. Therefore, the IRC in partnership with the GNWT and Canada should, through existing forums where possible, be a full partner in assessing and designing social policies and associated programming responsive to local circumstances and social and economic realities;
17. Funding for social programs should be multi-year block funded and tied to social progress benchmarks set by the IRC in cooperation with Canada and GNWT rather than be allocated as it is now as piecemeal, project-based, yearly opportunistic program funding, tied solely to government policy criteria; and

18. Government has to let go of the idea that its policies should be standard throughout the territory. This is not working. Working in partnership with the IRC, government should be prepared to assess the resources available in the Inuvialuit Settlement Region for specific social policy programs (such as housing), and within that envelope of resources, work with the IRC to design relevant and responsive policies to address the social circumstances consistent with the subsistence economy model found in small communities of the Inuvialuit Settlement Region.



## **Appendix A – Comprehensive Land Claims Agreements and Claims Related Self-Government Agreements<sup>179</sup>**

|   | Province/<br>Territory | Year<br>Agreement<br>Signed | # of<br>Communities | Approximate<br>Population    |
|---|------------------------|-----------------------------|---------------------|------------------------------|
| Nisga'a Final Agreement                                       | BC                     | 2000                        | 4                   | 6,200                        |
| Tsawwassen First Nation Final Agreement                       | BC                     | 2009                        | 1                   | 400                          |
| Maa-nulth First Nations Final Agreement                       | BC                     | 2011                        | 5                   | 2,000                        |
| Labrador Inuit Land Claims Agreement                          | NFLD                   | 2005                        | 5                   | 7,102                        |
| Tilcho Land Claims and Self-Government Agreement              | NWT                    | 2005                        | 4                   | 2,832                        |
| Vuntut Gwichin First Nation Self – Government Agreement       | YT                     | 1995                        | 1                   | 524                          |
| First Nation Nacho Nyak Dun Self-Government Agreement         | YT                     | 1995                        | 1                   | 474                          |
| Teslin Tlingit Council Self-Government Agreement              | YT                     | 1995                        | 1                   | 573                          |
| Champagne and Aishihik First Nation Self-Government Agreement | YT                     | 1995                        | 1                   | 813                          |
| Little Salmon/Carmacks First Nation Self-Government Agreement | YT                     | 1998                        | 1                   | 609                          |
| Selkirk First Nation Self-Government Agreement                | YT                     | 1998                        | 1                   | 514                          |
| Tr'ondëk Hwëch'in Self-Government Agreement                   | YT                     | 1998                        | 1                   | 695                          |
| Ta'an Kwach'an Council Self-Government Agreement              | YT                     | 2002                        | 1                   | 237                          |
| Kluane First Nation Self-Government Agreement                 | YT                     | 2004                        | 1                   | 143                          |
| Kwanlin Dun First Nation Self-Government Agreement            | YT                     | 2005                        | 1                   | 964                          |
| Carcross/Tagish First Nation Self-Government Agreement        | YT                     | 2005                        | 1                   | 615                          |
| James Bay and Northern Québec Agreement <sup>180</sup>        | Quebec                 | 1975                        | 24                  | 17,123 Cree and 11,410 Inuit |
| Northeastern Québec Agreement                                 | Quebec                 | 1978                        | 1                   | 1,152 Naskapi                |
| Nunavik Inuit Land Claims Agreement                           | Quebec                 | 2008                        | 15                  | 11,410 Inuit                 |
| Eeyou Marine Region Land Claim Agreement                      | Quebec                 | 2012                        | 9                   | 17,123 Cree                  |
| Inuvialuit Final Agreement                                    | NWT                    | 1984                        | 6                   | 4,000                        |
| Gwich'in Comprehensive Land Claim Agreement                   | NWT                    | 1992                        | 4                   | 2,500                        |
| Sahtu Dene and Métis Agreement                                | NWT                    | 1994                        | 5                   | 3,200                        |
| Nunavut Land Claims Agreement                                 | Nunavut                | 1993                        | 26                  | 30,000                       |

<sup>179</sup> The Yale First Nation Final Agreement in BC will come into effect on April 1, 2015.

<sup>180</sup> 15 communities Nunavik Inuit Land Claims Agreement and nine communities in Eeyou Marine Region Land Claims Agreement are also involved in the James Bay and Northern Quebec Agreement