

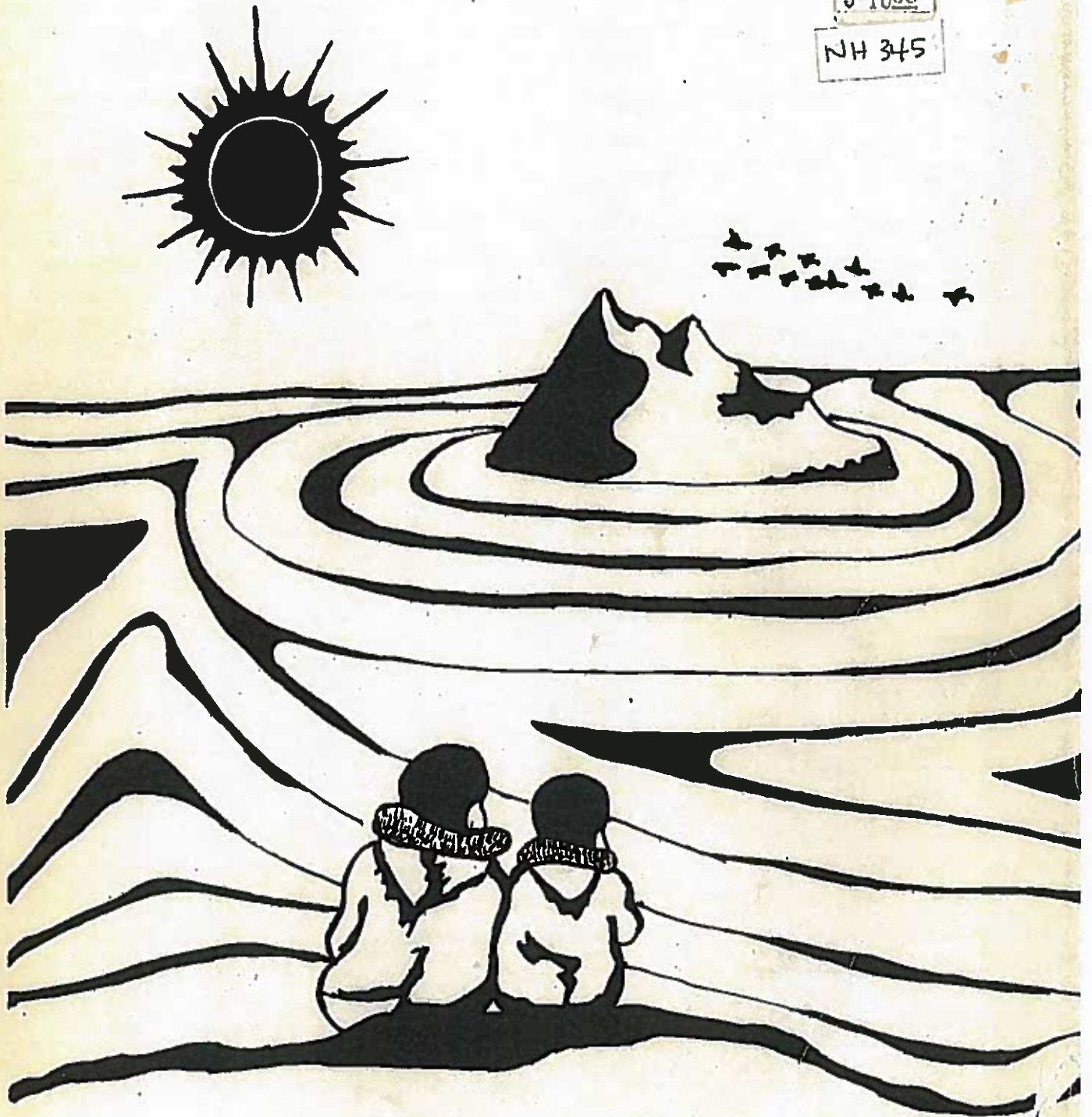
"INUVIALUIT NUNUNGAT"

May 13, 1979

Committee for Original Peoples Ent.

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SHEILA NASOGALUAK

INUVIALUIT

NUNANGAT

"INUVIALUIT NUNUNGAT"

The
PROPOSAL
for an
AGREEMENT-IN-PRINCIPLE
to achieve the
SETTLEMENT OF INUVIALUIT LAND RIGHTS
in the
WESTERN ARCTIC REGION OF THE NORTHWEST AND YUKON TERRITORIES

Between
THE GOVERNMENT OF CANADA
and
THE COMMITTEE FOR ORIGINAL PEOPLES' ENTITLEMENT

May 13, 1977

May 13, 1977.

The Right Honourable Pierre E. Trudeau,
Prime Minister of Canada,

and

The Honourable Warren Allmand,
Minister of Indian and Northern Affairs,

on behalf of the Government of Canada.

Dear Mr. Prime Minister and Mr. Allmand:

Our organization, the Committee for Original Peoples' Entitlement, is presenting this land rights settlement proposal for the original people known as Inuvialuit, sometimes called Eskimos or Inuit by others. We live in the Western Arctic Region of Canada.

In presenting this, we are really making a submission through you to all the people of Canada. We first met with you, Mr. Minister, on December 17, 1976, and we agreed that the Inuvialuit would submit a land rights settlement proposal for the Western Arctic Region. We have worked hard since then, as you know and have kindly acknowledged. On December 17 we promised you that we would present a proposal by June 1, 1977 and we have kept our promise.

Mr. Prime Minister, we all know that your Cabinet will be making a decision in respect to a Mackenzie Valley gas pipeline shortly. Quite frankly, we believe that your Government will approve the Mackenzie Valley route.

Let us say clearly and unequivocally to you what our position is about a pipeline. We do not want it. We, as Inuvialuit and as Canadians, do not think it is worth the social, environmental and financial costs. Moreover, we have had to prepare our land rights proposal with the threat of an affirmative pipeline decision, because for us to do otherwise would be to gamble with our future.

Clearly, it is imperative that there be a land rights settlement before any pipeline is started, for the consequence of a pipeline will be a tremendous acceleration of destructive social and environmental impacts that will be borne by the Inuvialuit for generations. These adverse impacts will be felt more severely by the original peoples because our future, like our past, will be in the Canadian Arctic.

Regardless of whether a Mackenzie Valley gas pipeline is approved, we think an early settlement of Inuvialuit land rights is in the Canadian public interest. Northern society is changing rapidly and therefore a settlement in respect to our land rights should be accomplished without delay.

As we have told you, Mr. Minister, and your staff on several occasions, our land rights submission contains proposals for a regional municipal government and a public land management agency in addition to the retention of land, and royalties from oil and gas development, which are benefits in exchange for the land we bring to all Canadians. We seek these public agencies to improve greatly the effectiveness of government in the Arctic.

We have never claimed a 'separate status'. Nor does our land rights proposal. The Inuvialuit believe in Canada. The President of the Committee

for Original Peoples' Entitlement testified recently before the pipeline hearings in Washington, and he unilaterally told you, Mr. Prime Minister, in advance that his testimony would state, first, that the Inuvialuit believe fully in Canada and will never seek any sort of 'separate status' and, second, that we will never contemplate threatening illegal means to achieve a fair land rights settlement.

Many of your officials, and indeed, some Cabinet Ministers, assure you and the country that there is a coherent public policy for northern development and that the interests of the people and the environment are put before the interests of non-renewable resource development. After all, have not past Government policy papers said that people and the environment come first?

Let us, the Inuvialuit state to you the simple truth. First, there is no coherent policy for northern development in Canada, nor has there ever been one; second, the interests of non-renewable resource development have always been given priority; third, the planning of public policy relevant to northern Canada is woefully lacking as compared with every other circumpolar jurisdiction; and fourth, the situation is out of control. We have no hope for basic change, because we do not believe your Government wishes to effect change if to do so means restricting non-renewable resource development.

Therefore, Mr. Prime Minister and Mr. Minister, all the Inuvialuit can try to do is to plead with your Government not to destroy us and our lands. This land rights settlement proposal does not preclude oil and gas development nor a pipeline in the Western Arctic Region. It does afford

the Inuvialuit some protection of Inuit cultural identity and values within a changing Northern society, enables the Inuvialuit to be equal and meaningful participants in that society, provides fair benefits to the Inuvialuit in exchange for the extinguishment of our land rights as original people, and provides a means to better protect the Arctic wildlife and environment.

There is a legal basis, a moral basis, and a social policy basis for the Government of Canada to enter into a settlement of Inuvialuit land rights. The proposal we submit is in the public interest as well as in our own interest.

We have prepared this proposal in the form of an offer to enter into an Agreement-in-Principle. We think it better that we express fully our views and position. We appreciate that changes in details will be necessary in arriving at a Final Agreement as to a settlement of Inuvialuit land rights. But we are firmly of the view that the principles and quantity items (in particular, lands and royalties) as set forth are very reasonable and fair. We do not come to you with inordinate demands with a view to falling back to lesser principles or lesser quantitative requests. We have adopted a position which is fair to, and meets the needs of, both the Inuvialuit and Canada. There is a fair and practical reconciliation of interests.

The Inuvialuit are the very first Canadians, and as the original people it is especially tragic that our property rights are being compromised without our consent and without the due process guaranteed by that most fundamental of Canadian laws, The Canadian Bill of Rights. In the face of this injustice we are pleased and appreciative that you have given us the opportunity of negotiating a settlement of our land rights with your Government.

It is our desire to negotiate and we hope it is yours as well. But time grows short. We are ready to discuss and explain our proposal, but we stress - it is a fair and reasonable proposal and can be accepted by the Government.

There can be no reason for delay in the Cabinet dealing with us. At the December and subsequent meetings with your officials, we apprised them of the necessity of the Government giving consideration to the land rights concerns of the Western Arctic Region while we were preparing our proposal, so that negotiations could proceed quickly. Also, we have informed your officials openly and quickly of our views about the proposal, so that they would have as much notice as possible of its content and direction.

We request that discussions and negotiations take place immediately and involve you directly, Mr. Prime Minister, and your Ministers, in particular, Mr. Allmand of course, so that a decision about our proposal, whether modified by such discussions, can be made before your Government decides on a pipeline. This is only right if the Government is to do what it professes, that is, put the interests of the original people of the Western Arctic Region as first in the sequence of issues and decisions about development.

We speak not as a people who are desperate, but we hold no illusions. All we ask - and we implore you both personally - please understand what we are saying and meet with us to resolve any question, and give us the dignity of settling the question of our land rights before any further significant northern development. We also request that the Government not allow any further alienations unless and until an Agreement-in-Principle has been signed.

Mr. Prime Minister and Mr. Minister, we may be in disagreement with many of your policies but we stand before you today proud to be Canadians. We thank you sincerely for meeting with us. We are pleased to present this proposal to you and to the people of Canada.

Yours respectfully,

The Committee for Original Peoples'
Entitlement



President & Director



Director

Director



Director



Director

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GENERAL STATEMENT

OF

POLICY AND INTENT

1. The Inuvialuit of the Western Arctic Region have extensive claims upon the basis of rights to lands and waters in the Northwest Territories, the Yukon Territory and the offshore seabed and subsoil in Canada.
2. The Government of Canada has assisted the Committee for Original Peoples' Entitlement to research such claims, organize the Inuvialuit position in respect to their land rights, and research and prepare a proposal for the negotiation and settlement of such rights.
3. The Committee for Original Peoples' Entitlement and the Government of Canada recognize that litigation in respect to Inuvialuit land rights is undesirable, because irrespective of whether the Inuvialuit were successful in such litigation, it would be desirable from the standpoint of morality, fairness, practicality, and social policy, to negotiate a settlement of Inuvialuit land rights on the basis set forth in this Agreement.
4. The Committee for Original Peoples' Entitlement and the Government of Canada mutually agree upon certain basic principles and objectives in respect to such an Inuvialuit land rights settlement, including:
 - (a) the settlement must be fair and reasonable to, and meet the needs of the Inuvialuit.

- (b) the settlement must be within a framework of enhancing and protecting Inuit cultural identity and values;
 - (c) the settlement must facilitate the meaningful participation of Inuvialuit in the changing North and in Canadian society;
 - (d) the settlement must serve to protect and preserve the Arctic wildlife, environment and biological productivity.
5. The Committee for Original Peoples' Entitlement and the Government of Canada agree that the signing of this Agreement-in-Principle is without prejudice to both Parties if negotiations should fail in concluding a Final Agreement, and if the Parties are unable to agree in respect to those matters remaining to be negotiated hereunder in the Final Agreement, the present Agreement-in-Principle shall be without legal force and effect, and anything done pursuant to the Agreement-in-Principle in the interim, will also be without legal force and effect, except to the extent the Parties may otherwise expressly agree.
6. The Committee for Original Peoples' Entitlement and the Government of Canada agree that the principles and provisions set forth in this Agreement will form the basis of a Final Agreement, and further agree that the Final Agreement will be submitted for incorporation into special legislation by the Parliament of Canada.
7. The Committee for Original Peoples' Entitlement and the Government of Canada agree to negotiate in good faith a Final Agreement which shall

set forth all the rights and obligations of both Parties and shall contain all the provisions of this Agreement-in-Principle, no later than twelve months after the signing of this Agreement-in-Principle or such other date as may be mutually agreed upon by the Parties, but in all events before the construction commences on any MacKenzie Valley gas pipeline.

SUMMARY OF INUVIALUIT LAND RIGHTS

SETTLEMENT PROPOSAL

1. The four basic goals of the Inuvialuit land rights settlement are to:
 - (1) Preserve Inuit cultural identity and values within a changing Northern society;
 - (2) Enable Inuvialuit to be equal and meaningful participants in the changing North and in the Canadian society;
 - (3) Achieve fair compensation or benefits to the Inuvialuit in exchange for the extinguishment of Inuvialuit land rights; and
 - (4) Protect and preserve the Arctic wildlife, environment, and biological productivity.

2. The means to achieve the first goal is sought through several provisions, including the following:
 - (1) The creation of the Western Arctic Regional Municipality (Part Four);
 - (2) The Inuvialuit having clearly recognized hunting, trapping and fishing rights together with strong managerial control over these activities (Part Five);
 - (3) The Inuvialuit holding a land base in an estate in fee simple absolute, except for oil and gas rights, which will afford better control over what happens with activities associated with mineral development with

respect to those lands, and which will provide better control over community growth (Part Six);

- (4) A special Inuvialuit Social Development Program (Part Ten);
 - (5) Better game management and wildlife research to assure that the traditional, subsistence way of life remains a viable option in the future (Part Five); and
 - (6) Better planning and management for land use in respect to all lands and the offshore sea in the Western Arctic Region (Part Eleven).
3. The means to achieve the second goal is sought through several provisions, including the following:
- (1) The Inuvialuit being more involved in the operation of government and the delivery of governmental services, in particular, education, game management, economic development and police services through the creation of the Western Arctic Regional Municipality (Part Four);
 - (2) Inuvialuit participation in decision-making in respect to research, management and harvesting of wildlife (Part Five);
 - (3) The Inuvialuit having greater participation in an improved land use planning and management system (Part Eleven);
 - (4) A special Inuvialuit Social Development Program (Part Ten); and
 - (5) An Inuvialuit Development Corporation and an Inuvialuit Investment Corporation (Part Eight), funded through royalties (Part Nine).

4. Compensation or benefits in the settlement are taken in the form of:
- (1) an estate in fee simple absolute, except for oil and gas rights, to some lands (Part Six); and
 - (2) a three percent royalty from oil and gas development in the Western Arctic Region (Part Nine);

No cash transfers from the Government are asked for as compensation in the settlement. Any monetary compensation or benefits will come through royalties arising from oil and gas development or through development of Inuvialuit lands. The Inuvialuit will share the risks in respect to the economic benefits of development: we do not want handouts.

5. The Inuvialuit well-being is premised upon there being adequate protection and preservation of the Arctic wildlife, environment, and biological productivity (Part Five). A much improved system of land use planning and management is sought in respect to all lands and the offshore sea within the Western Arctic Region (Part Eleven). The Inuvialuit feel strongly that this objective is critical to the general Canadian public interest.

PART ONE
INTERPRETATION



PART ONE

INTERPRETATION

- S.101 For the purpose of this Agreement, the term
- "Agreement of consent" means an agreement as provided for in section 609;
- "Commercial usage" means the hunting, fishing or trapping of wildlife for the sole purpose of selling meat, fish or furs on the commercial market, but does not include the taking of wildlife for the purpose of intersettlement trade;
- "Community Hunters and Trappers Committee" means an association of Inuvialuit established in accordance with section 505;
- "Community hunting and trapping area" means the various areas of the Western Arctic Region, including the offshore sea waters as constituted by section 515 of this Agreement;
- "Community site" means the area within an Inuvialuit community as defined by section 606;
- "Conservation" means the management of wildlife species and habitat to assure the maintenance of the wildlife resources in a healthy state, by employing the relevant knowledge and experience of the Inuvialuit and the biological sciences;
- "Critical habitat" means those unique areas that are particularly important for the vital aspects of the life histories of the wildlife species - for example; fish spawning rivers, caribou

calving areas, bird nesting areas, specific wintering areas
and areas of exceptional productivity;

"Game Council" means the body established by section 504;

"Development activities" are all activities except hunting, fishing
and trapping, passage on Inuvialuit lands, individual recreation,
and camping within Inuvialuit lands for less than three months;

"Inuvialuit" means the aggregate of those people who are known as
Inuvialuit, Inuit, or Eskimos and enrolled as provided in Part
Three and those who are members of an Inuvialuit community corp-
oration;

"Inuvialuit community" means the following communities in the Western
Arctic Region of the Northwest Territories and includes, for
greater certainty, any camps in the Western Arctic Region the
people of which come from these communities:

Aklavik
Holman Island
Inuvik
New Settlement (if such is constituted by section 410)
Paulatuk
Sachs Harbour
Tuktoyaktuk

and includes any new Inuvialuit communities established from time
to time and recognized as such by a resolution of the Board of
Directors of the Inuvialuit Land Corporation.

"Inuvialuit community corporation" or "community corporation" means
a corporation established in accordance with subsection 201(1);

"Inuvialuit Development Corporation" means the corporation established

in accordance with section 801;

"Inuvialuit Investment Corporation" means the corporation established in accordance with section 802;

"Inuvialuit lands" mean those lands selected and owned by the Inuvialuit as provided for in subsections 601(1) and (2);

"Inuvialuit Land Corporation" means the corporation established in accordance with section 202;

"Inuvialuit Social Development Fund" means the fund established pursuant to Part Ten;

"Lands" include lands under water and the water and ice thereon;

"Land Use Planning and Management Commission" means the Land Use Planning and Management Commission established pursuant to Part Eleven;

"Land selection process" means the determination of all those Inuvialuit lands referred to in subsection 601(2), by the process established in sections 602 and 703;

"Minister" means the Minister of the Department of Indian and Northern Affairs;

"Natural Resources Research Board" means that wildlife research body as provided for in section 506;

"New settlement" means the settlement established pursuant to section 410, should that happen;

"Nunavut" or "Nunavut Territory" means that Territory referred to in section 401, and described in Schedule "A",

"Public lands" means those lands and waters as defined in section 1101;

"Sport and Recreational usage" means the hunting or fishing of wildlife by a person who is not doing so for subsistence usage or commercial usage;

"Subsistence usage" means the hunting, fishing or trapping of wildlife for the purpose of food, clothing, or livelihood, including for the purpose of intersettlement trade, "subsistence usage" being defined from time to time by the Game Council;

"Western Arctic Region" means that geographical area of Canada referred to in section 402 and described in Schedule "B";

"Western Arctic Regional Municipality" means the governmental jurisdiction and authority established for the Western Arctic Region pursuant to Part four; and

"Wildlife" means all manner of fauna to be found in the Western Arctic Region.

PART TWO
GENERAL MATTERS



Preface to Part Two

GENERAL MATTERS

This Part makes provision for important structures, procedures and protections that are basic to the proposal and are mentioned throughout.

PART TWO

GENERAL MATTERS

- S.201 (1) Each Inuvialuit community shall organize as a not-for-profit corporation under the laws of Canada or the Northwest Territories, each such corporation to be known as the "[name of community] Inuvialuit Community Corporation".
- (2) Membership in an Inuvialuit community corporation shall be determined by the articles of incorporation.
- (3) A person must be a member of an Inuvialuit Community corporation to be qualified to be elected or appointed as a director of that corporation.
- S.202 (1) The Inuvialuit community corporations shall organize a regional not-for-profit corporation under the laws of Canada or the Northwest Territories, which shall be called the "Inuvialuit Land Corporation".
- (2) Membership in the Inuvialuit Land Corporation shall be limited to the Inuvialuit community corporations.
- S.203 (1) Royalties received by the Inuvialuit Development Corporation and the Inuvialuit Investment Corporation pursuant to section 906 shall not be subject to any form of federal, territorial, provincial, or municipal taxation, and shall be deemed to be paid-up capital of the receiving corporation for purposes of the Income Tax Act

so that any distribution to shareholders of royalties will be free of tax, and shall be deemed to be capital paid into the corporation such as to be credited to the receiving corporation's stated capital account for purposes of the Canada Business Corporations Act so that any distribution to shareholders would be a return of capital.

Comment to Section 203(1):

As the Inuvialuit are surrendering their aboriginal property rights, including all oil and gas rights, in exchange for the benefits under the settlement, one benefit being the 3% royalty, the dollar benefits received through the royalty provision are truly in the nature of a capital receipt; moreover, there is not a net gain through the exchange. The Inuvialuit are giving up more than they are receiving in exchange. Therefore, there should not be any taxation of this receipt. The tax status of the royalty receipt in this unique situation is uncertain under the laws of general application, and this provision is included for certainty. Royalties received from the development of "Inuvialuit lands" (and Inuvialuit lands do not include oil and gas rights) will be taxable: see subsection (3).

- (2) The receipt of shares in the Inuvialuit Development Corporation or the Inuvialuit Investment Corporation by or on behalf of any person or community corporation shall not be subject to any form of federal, territorial, provincial or municipal taxation.
- (3) Real property interests recognized or conveyed pursuant to this Agreement or the Final Agreement to the Inuvialuit Land Corporation

and the Inuvialuit community corporations shall be exempt from federal, territorial, provincial and municipal real property taxes so long as they are owned by any such corporations provided however, all royalties, rents, profits and other revenues or proceeds derived from such property interests shall be taxable to the same extent as such revenues or proceeds are by laws of general application.

Comment to Section 203(3):

The Inuvialuit lands should not be subject to property tax: this status is like that of lands held under the Indian Act: s.87. This provision is essential to prevent the Inuvialuit losing their lands due to taxation or being forced to develop their lands because of taxation. However, the Inuvialuit do not ask that income from development have any exemption from tax; in contrast, s.87 of the Indian Act exempts from taxation income from Indian lands. Thus, the Inuvialuit are seeking much less than the tax exempt status presently given under the Indian Act.

- (4) Any transfer of an interest in Inuvialuit lands as between any one or more of the following: any Inuvialuit community corporation, the Inuvialuit Development Corporation, the Inuvialuit Investment Corporation, the Inuvialuit Land Corporation, the Committee for Original Peoples' Entitlement or any Inuvialuk, shall not be subject to any form of federal, territorial, provincial or local taxation.

Comment to Section 203(4):

Some flexibility is needed to determine how Inuvialuit lands are best held so as to achieve the objectives of the settlement. The transfers referred to in this subsection are simply those as between Inuvialuit and their institutions.

- (5) For greater certainty, the Government agrees that there shall be no federal, territorial, provincial or municipal tax imposed upon an Inuvialuit community corporation, or its income or property.

Comment to Section 203(5):

This provision is for greater certainty, because each Inuvialuit community corporation is a not-for-profit corporation and, therefore, should have tax exempt status under s.149 of the Income Tax Act in any event.

- (6) For greater certainty, the Government agrees that there shall be no federal, territorial, provincial or municipal tax imposed upon the Inuvialuit Land Corporation, or its income or property.

Comment to Section 203(6):

This provision is for greater certainty, because the Inuvialuit Land Corporation is a not-for-profit corporation and therefore, should have tax exempt status under s.149 of the Income Tax Act in any event.

S.204 Legislation by the Parliament of Canada incorporating the Final Agreement shall provide that where there is a conflict between a provision of the incorporating legislation and a provision of any

other federal law, or territorial or provincial law, applicable to the Western Arctic Region or to the subject matters dealt with in the incorporating legislation, the provision of the incorporating legislation shall prevail, to the extent of such conflict.

S.205 In consideration of the rights and benefits set forth in the Final Agreement, the Inuvialuit of the Northwest Territories undertake to cede and surrender all their claims, rights, titles and interests in and to land in the Northwest Territories, the Yukon Territory and adjacent offshore seabed and subsoil in Canada, by virtue of the said Final Agreement, and upon the signing of the Final Agreement all such claims, rights, titles and interests of the Inuvialuit shall be extinguished, subject to the provisions of such Final Agreement.

S.206 Any disagreement arising under this Agreement or the Final Agreement or upon the interpretation of any provision of this Agreement or the Final Agreement, shall be referred to an arbitration panel consisting of one arbitrator appointed by each Party and a third arbitrator appointed by agreement of the two arbitrators appointed by the Parties, provided however, if the said two arbitrators are not able to agree upon the appointment of a third arbitrator, he shall be the Commissioner for Indian Claims, and the decision of the arbitration panel shall be final and binding upon the Parties.

S.207 The Inuvialuit Investment Corporation and the Inuvialuit Development Corporation jointly and severally undertake to pay to the Government of Canada within twenty years after the signing of the Final Agreement, a sum equal to the total of all amounts given or lent to the Committee for Original Peoples' Entitlement by the Government for the purpose of the preparation and submission of this Proposal, together with interest thereon or so much thereof as is outstanding from time to time at the rate of six percent per annum compounded annually, calculated from the date of the signing of the Final Agreement.

Comment to Section 207:

The Committee for Original Peoples' Entitlement has no long term institutional role determined in this land rights proposal. The Inuvialuit wish to use the Committee for Original Peoples' Entitlement as the institution to implement many features of the land rights settlement. The Committee for Original Peoples' Entitlement will assist in such things as setting up the community corporations, land selections, and in the Social Development Program. Therefore the Committee for Original Peoples' Entitlement will continue during the transition period while the land rights settlement is being implemented. After that time the Committee for Original Peoples' Entitlement has no defined role, and the Inuvialuit will decide at that time what the Committee for Original Peoples' Entitlement should do. The Committee for Original Peoples' Entitlement gets no share of the royalties or benefits.

PART THREE
ELIGIBILITY AND ENROLLMENT

Preface to Part Three

ELIGIBILITY AND ENROLLMENT

There must be a means of deciding who participates in the benefits of a land rights settlement. It is obvious that for the most part the Inuvialuit themselves can decide who should be included. Yet there are objective criteria so that the Government as well can be certain that those who properly are eligible do in fact become enrolled. The system for enrollment is simple, quick, fair and does not necessitate any significant bureaucratic structure to carry out. Part Three also avoids the difficulty with 'status' determination as experienced by the Indian people, yet provides that future generations will share in the benefits from the settlement.

PART THREE

ELIGIBILITY AND ENROLLMENT

- S.301 (1) For the purpose of this Agreement, "Inuvialuk" means a person
- (a) who is
 - (i) a citizen of Canada;
 - (ii) alive as of the date of the Final Agreement;
 - (iii) has one-fourth degree or more Inuvialuit blood; and
 - (iv) was born in the Western Arctic Region, or has been a resident of the Western Arctic Region for a total of at least ten years during his lifetime;
 - (b) who is alive as of the date of the Final Agreement and is regarded as a child, natural, or adopted according to the law of any jurisdiction or by Inuvialuit custom, of either a female or male person who qualifies under subparagraphs (i), (iii), or (iv) of paragraph (a) or
 - (c) who is alive as of the date of the Final Agreement and is a member of an Inuvialuit community corporation; and
 - (d) who is enrolled as provided in sections 302 and 303.
- (2) For the purpose of this Part, an Inuvialuk who was born in Inuvik, or who has been a resident of Inuvik for a total of at least ten years during his lifetime, is deemed to be an Inuvialuk who qualifies under subparagraph 301(1)(a)(iv).

Comment to Section 301:

1. Approximately 2,500 people will participate in the settlement. The quality and quantity of a settlement should not change due to the precise number of persons participating. Criteria for eligibility are necessary to ensure fairness. Procedures must be quick, simple and uncostly. The Inuvialuit themselves can determine, for the most part, who will be eligible, through paragraph 301(1)(c). Note also that paragraph 301(1)(c), coupled with section 303, allows for ongoing eligibility for a period of three years after the signing of the Final Agreement. This allows sufficient time for the Inuvialuit communities to ensure that every person whom they consider eligible, participates in the settlement.

S.302 (1) Every person who claims to be an "Inuvialuk" within the meaning of paragraphs 301(1)(a) or (b) and makes such claim to the Commissioner for Indian Claims within two years after the signing of the Final Agreement, and who is found to come within paragraphs 301(1)(a) or (b) as determined by the Commissioner for Indian Claims, shall be enrolled by the Minister as a person participating in the settlement of Inuvialuit land rights in the Western Arctic Region.

(2) The Minister shall set forth evidentiary requirements for a person to meet to establish that the person comes within paragraphs 301(1)(a) or (b) and the decision of the Commissioner for Indian Claims as to who is an "Inuvialuk" within the meaning of paragraphs 301(1)(a) or (b) and entitled to enrollment shall be final.

(3) The Minister and Commissioner for Indian Claims shall act as quickly as possible upon the signing of the Final Agreement to implement the enrollment procedures contemplated by this Part, and shall act as quickly as possible in effecting enrollment, and in all events the Commissioner for Indian Claims will make a decision in respect to each claimant under section 301(1)(a) or (b) and communicate such decision to both the claimant and the Minister forthwith upon it having been made, within two and one-half years after the signing of the Final Agreement.

S.303 Each Inuvialuit community corporation will decide who is to be a member of each such corporation and entitled to enrollment and the decision of the corporation shall be final, provided however, any person who becomes a member of any such corporation later than three years after the signing of the Final Agreement is not entitled to enrollment, and for greater certainty, is not entitled to receive the benefits set forth in Part Eight just because of membership in an Inuvialuit Community Corporation.

Comment to Sections 302 and 303:

1. The Commissioner for Indian Claims determines who is an "Inuvialuk" for the purpose of enrollment under paragraphs 301(1)(a) or (b). This provision provides an objective basis for enrollment for any claimant who is not acceptable to a community corporation for membership. Thus, the public can be assured that anyone regarded by the Government as an "Inuvialuk", subject

to the criteria of paragraphs 301(1)(a) or (b), and in fairness someone who should be a participant in the settlement, will participate through enrollment.

2. An Inuvialuit community corporation can allow anyone it wishes to have membership in the corporation, and hence enrollment, for the three years following the signing of the Final Agreement. It is anticipated that the vast majority of Inuvialuit will enroll in the settlement under paragraph 301(1)(c). Thereafter, each community corporation can continue to allow anyone it wishes to become a member. This allows complete on-going flexibility in respect to membership in the community corporations. The most important function of the community corporations is that they can control what happens to Inuvialuit lands through owning lands, and through controlling the Inuvialuit Land Corporation, controlling the nature and growth of their community and development activities in respect to Inuvialuit lands.

3. The direct material benefits of the settlement accrue to those enrolled in the settlement [and their heirs] through the Class B shares they receive in the Inuvialuit Development Corporation and the Inuvialuit Investment Corporation. Thus, there is a cut-off to enrollment in the settlement [S.303] and none of the problems of "status" for the future such as with the Indian Act. But at the same time, all persons in the future viewed by an Inuvialuit community corporation as someone who should decide what happens to the Inuvialuit lands or who should have hunting, trapping and fishing rights, can participate in such decisions through membership. Yet there are 'checks and balances'. The community corporations are not-

for-profit corporations. This means the members cannot use the corporation's money or property for their own personal gain. Benefits from development on Inuvialuit lands accrue to the Inuvialuit Development Corporation and the Inuvialuit Investment Corporation. Yet all communities control the Inuvialuit Development Corporation and the Inuvialuit Investment Corporation since only the community corporations have the voting shares [Class A]. There are constraints upon the re-investment of royalties and profits by the corporations. Any person who had one parent who received a Class B share is entitled upon reaching 18 years of age to make application to receive a Class B share. Thus, only direct descendants of Inuvialuit will participate, as Class B shareholders, in the material benefits afforded by any corporate distributions to individuals. The Class B shares are non-transferable and constitute a life interest only. This approach protects subsequent generations of Inuvialuit, yet avoids the "status" determination problems of the Indian Act.

4. Note that paragraph 301(1)(c) allows flexibility for a community corporation to include as its members people who may be thought of by others as non-Inuvialuit [and thus, enrollment for such persons, if they receive membership within the first three years]. This flexibility is especially important for communities such as Tuktoyaktuk and Aklavik where many non-Inuvialuit native people live. Self-interest suggests that a community corporation be careful in determining who it has as its members, particularly during the first three years because such persons receive Class B shares (and thus, their descendants receive them as well).

5. If a new settlement [and community corporation] is formed and recognized by the Inuvialuit Land Corporation (controlled by the Inuvialuit community corporations) the new settlement is entitled to a Class A share in the Inuvialuit Development Corporation and the Inuvialuit Investment Corporation as the "new settlement" is included within the definition of "Inuvialuit community".

PART FOUR
THE WESTERN ARCTIC REGION



Preface to Part Four

WESTERN ARCTIC REGIONAL MUNICIPALITY

There is a general recognition within Canada today of the need for decentralization in respect to governmental decision-making and the delivery of services. A Western Arctic Regional Municipality would have limited powers and functions at the outset: education, game management, economic development, and police services, and could be given further powers as considered appropriate by the Federal Government. Laws passed by the Regional Municipality may be disallowed by the Federal Government.

The Western Arctic Regional Municipality will not duplicate, but replace, specific services presently provided by the Government of the Northwest Territories. Services will be provided more efficiently and economically than at present.

The devolution contemplated is consistent with the historical development of local government in southern Canada and consistent with the stated goals of the Government of the Northwest Territories. There are three essential points. First, there must be regional control in respect to law-making as to matters, such as education, that are vital to the people within the region who have a community of interest, but which are not of direct concern to people beyond the region. Second, the essential criterion from both a practical and moral standpoint for effective governmental services is that people have control over the institutions which serve them. Third, it is only through effective participation in government that the Inuvialuit can self-develop.

These points are affirmed by the experiences of socially underdeveloped regions, in Canada and in the world. A contemporary example is Alaska: authority is being returned to the native peoples in their communities. The United States Indian Self-Determination and Education Assistance Act establishes the right of native people to manage their own social, health and education programs.

Programs sponsored by organizations such as the Alaska Legal Services Corporation, the Rural Alaska Community Action Plan, and the Community Enterprises Development Corporation are premised upon the basis of allowing the people to have the necessary resources and control to self-develop. Alaskan state legislation allows native peoples to hire teachers, determine budgets, and set education policies and curricula. The Alaskan mental health legislation provides assistance to local groups to develop their own services. Although the Inuvialuit constitute the vast majority of the population in the Western Arctic Region there are no Inuvialuit who are regular police officers, game management officers or nurses, and perhaps a handful who are teachers' aides. Something is wrong.

A paradox exists in the Arctic. The Government of the Northwest Territories continually asserts that it is dominated by a colonially-minded Federal Government, yet it is the sophisticated non-natives who control in fact the Territorial Government and Council who eagerly wish to retain the vast entirety of the Northwest Territories as their domain.

Neither the concept of Nunavut Territory nor the Western Arctic Regional Municipality are premised upon any concept of 'special status' for any racial group, or jurisdictional special status within Canada. All Canadians within the jurisdictions contemplated by these proposals have the same rights within the public institutions of government. The citizen who looks beyond the shrill hysteria of critics within the Territorial Government and Council will realize that both proposals are founded upon basic Canadian values of democracy.

The desire remains to constitute a Nunavut Territory because it is necessary to the Inuit, and vital to the public interest. The Regional Municipality would be at most a lesser entity within the structure of that Territory.

PART FOUR

THE WESTERN ARCTIC REGION

- S.401 The Inuvialuit restate firmly their desire and belief in the concept of and desirability for a new Territory called "Nunavut", and the Government agrees to discuss and consider establishing a new Territory called "Nunavut", comprising the following generally described areas, as shown on the map attached as Schedule 'A' to this Agreement, and including all the lands and waters therein;
- (a) that part of the existing Yukon Territory north of the height of land between the Arctic Ocean and the Yukon River basin, [commonly called the British and Richardson Mountains] including all harbours, bays, estuaries, and other similar inland waters;
 - (b) that part of the existing Northwest Territories generally north of the treeline, and including all harbours, bays, estuaries and other similar inland waters; and
 - (c) all the lands, including the mineral and other natural resources of the seabed and subsoil landward from the ordinary low-water mark on the coast of the mainland and the several islands of the areas described in paragraphs (a) and (b), provided however, it is further agreed that the boundaries of Nunavut will be extended in the future to accord with the principles of any agreed-upon set of boundaries between the Federal Government and the provinces in respect to lands of the seabed and subsoil beyond the inland waters and seaward from the ordinary low-water mark.

Comment to Section 401:

1. The purpose of Nunavut Territory has already been discussed through the submission of the "Nunavut Proposal" to the Prime Minister and the Federal Cabinet on February 27, 1976. The basic idea is to create a geographical area where there is a community of interest. The tree line is a natural boundary for this Territory. Within Nunavut, the vast majority of people would be Inuit. As such, this Territory and its institutions would better reflect this affinity of interest than does the present Northwest Territories. The Inuit should have actual control through their voting power, at least for the foreseeable future. No new or different legislative powers are requested through the "Nunavut Proposal" than those which exist at present for a Territory. That is, 'separate status' is not contemplated. The creation of Nunavut would mean that the Yukon and Northwest Territories could become provinces more quickly, leaving Nunavut as a Territory for the present, and as a federal jurisdiction. This feature should have broad public appeal.

S.402 The Government of Canada and the Inuvialuit agree that there will be a geographical area within Canada known as the "Western Arctic Region", comprising the lands and waters as shown on the map attached as Schedule "B" to this Agreement.

- S.403 (1) The Government of Canada agrees that there will be constituted a popularly elected government for a Western Arctic Regional Municipality.
- (2) The Government of the Western Arctic Regional Municipality will at the outset have the legislative and administrative control of education, game management, economic development and police services within the Western Arctic Region.

- (3) Participation in elections in the Western Arctic Regional Municipality will be limited to persons residing therein who are not less than 18 years of age and who have resided for at least five years in the Western Arctic Region.
- S.404 The Government of Canada will continue to provide the same kind of financial support to the Western Arctic Regional Municipality, with the necessary changes to account for population and geographical differences, as is given to the governments of the Northwest Territories and Yukon Territory, to cover the responsibilities for education, game management and economic development; and as is given by the Government of Canada for police services, such financial support to the Western Arctic Regional Municipality to be according to the same criteria, unless the Western Arctic Regional Municipality and the Federal Government agree on another basis for determining these funds.
- S.405 The Government of the Western Arctic Regional Municipality will advise the Governments of the Northwest Territories and Canada in respect to all governmental services provided, other than those services referred to in section 403 which are to be provided by the Government of the Western Arctic Regional Municipality.
- S.406 (1) A copy of every law or regulation enacted by the Western Arctic Regional Municipality shall be forwarded by mail to the Minister within four days after it is made.
- (2) A law or regulation enacted by the Western Arctic Regional Municipality comes into force thirty days after a copy thereof is forwarded to the Minister pursuant to subsection (1), unless

it is disallowed by the Minister within that period, but the Minister may declare the law or regulation to be in force at any time before the expiration of that period.

- S.407 Upon the approval of the Minister, the Government of the Western Arctic Regional Municipality may assume any governmental responsibilities that a province would have.
- S.408 The Government of the Western Arctic Regional Municipality will have the power to levy real property taxes and business license fees.
- S.409 The administrative centre of the Western Arctic Regional Municipality will be located in Tuktoyaktuk at the outset.
- S.410 (1) Should the federal Cabinet give its approval to the construction of a Mackenzie Valley gas pipeline then subsections (2) and (3) will be operative.
- (2) The Government of Canada in consultation with the Committee for Original Peoples' Entitlement and the Inuvialuit will plan, develop, and construct within five years after the signing of the Final Agreement, a "new settlement" situated in the Mackenzie Delta area and located north of Aklavik in the area shown on the map attached as Schedule "C" within the Western Arctic Region, provided however, the Government of Canada need not comply with this provision if the Committee for Original Peoples' Entitlement cannot give reasonable evidence within two years of federal Cabinet approval to the construction of a MacKenzie Valley gas pipeline, that at least 200 Inuvialuit are prepared to move to the new settlement.

(3) The Government of Canada will assume all costs for the development of the new settlement, including, without limiting the generality of the foregoing:

- (a) the planning and design of the settlement;
- (b) the design and construction of municipal roads, power station, fire hall, municipal garage, and all other services usual to such a local community.
- (c) the design and construction of a primary school and library;
- (d) the design and construction of public health facilities;
- (e) the cost of the preparation of commercial and private lots;
- (f) the cost of a community centre, transient centre, and a community hall; and
- (g) the moving costs of all Inuvialuit who wish to move to the new settlement.

Comment to S.410

The Inuvialuit have expressed their desire for many years to plan and construct a new community in the lower Delta. Although Inuvik was conceived by the government as a 'model town' it does not reflect the values, lifestyles or needs of many Inuvialuit. Life in Inuvik has added to the social disintegration of Inuvialuit, their values, and their social system. With a pipeline, this social disintegration will accelerate. Many Inuvialuit would want to move out of Inuvik to pursue their lives in a manner and in a location that permits them to continue as Inuvialuit. Should the pipeline not be approved, reasons still exist for a new settlement, and the Inuvialuit may still wish to discuss with the Government the creation of a new community.

- S.411 (1) The Government of Canada agrees that the Western Arctic Regional Municipality shall be given the estate in fee simple absolute except for oil and gas, free-of-charge, to all undeveloped land owned by the Government of Canada within the "community site" of each existing Inuvialuit community except for Inuvik and to all land, buildings, and chattels owned by the Government of the Northwest Territories within the "community site" of each Inuvialuit community except for Inuvik as of the date of the signing of the Final Agreement.
- (2) The Western Arctic Regional Municipality may transfer or assign ownership to any land, buildings or chattels it is entitled to by virtue of subsection (1) to the Hamlet Council or Settlement Council of the Inuvialuit community in which the land, building or chattels are situated.
- S.412 (1) The Government of Canada and the Inuvialuit both recognize that the proposed restructuring of governmental jurisdiction as set forth in this Part may not be as successful as desired in giving effective control to the local people of the Western Arctic Region.
- (2) The Government of Canada recognizes the need for flexibility in respect to governmental institutions and agrees to discuss with the Inuvialuit and consider in the future bringing before Parliament proposed legislation for the benefit of the Inuvialuit whereby they will be able to achieve self-determination in such matters as health, education and the administration of justice.

PART FIVE
WILDLIFE RESOURCES



Preface to Part Five

WILDLIFE RESOURCES

The survival of the Inuvialuit for thousands of years in the harsh Arctic environment has been possible only because of the wildlife produced on the lands and in the lakes and seas. The Inuvialuit lifestyle and social values are tied to the wildlife and to the natural environment.

The productivity of Arctic lands and waters is highly variable but always just a small fraction of the productivity found in southern Canada. It might take 100 square miles of tundra to support one caribou. The Inuvialuit must hunt the animals that can exist on the lichens and mosses. There are no farms to grow grain or vegetables in the Arctic.

The Inuvialuit recognize the Arctic is crossing the threshold of the industrial economy. This presents new opportunities and options, as well as problems, to the traditional subsistence lifestyle. But these have not diminished Inuvialuit values, nor Inuvialuit dependency upon the wildlife that still provides food and clothing. Development activity or wage employment must never be an exclusive option; the wildlife must be maintained for the generations to come. How foolish it would be to permit development to be careless and destroy the wildlife, with the thought of providing alternative food from the shrinking southern farmlands. Southern food is of lower quality and very costly to produce and to transport. For example, a hunter gains 10 calories of food for each calorie of energy he expends hunting. In contrast each food calorie of feedlot beef is subsidized by 100 calories of energy. The health of the Inuvialuit is intimately dependent upon the wildlife that live on their lands. The Inuvialuit, like other

Inuit, have only recently had cereal foods and sugar in their diet. This imported food has resulted in unbelievable health problems such as malnutrition, tooth decay, and sugar diabetes - all virtually unknown in the traditional way of life. The Inuvialuit have shown a shocking rate of glucose intolerance which results in many other physical and mental illnesses.

The Inuvialuit see their security for the present and for the future as being vested in the preservation of the wildlife populations. In the face of increased threats to the wildlife and wildlife habitat, the Inuvialuit see the means to achieve conservation as being through adequate wildlife research, management and enforcement. This is a priority of the Inuvialuit, but has not yet been a priority of government.

PART FIVE

WILDLIFE RESOURCES

- S.501 (1) The Inuvialuit and the Government of Canada agree that all habitat in the Western Arctic Region that is critical or important for the production or the harvesting of wildlife will be adequately protected.
- (2) It will be the responsibility of the community Hunters and Trappers Committees, the Game Council, and the Government of Canada to recommend areas that must be protected for consideration by the Land Use Planning and Management Commission.
- (3) All known critical areas for wildlife will be described and provisions for protection will be set forth in the Final Agreement.

Comment to Section 501:

This section recognizes that the Arctic habitat is not uniform in its importance to wildlife. There are some areas that are 'ecological hot spots' and must be protected whoever owns the land. Sub-section (3) recognizes the urgency of implementing section 501. It is further recognized that critical habitat changes with time, so that the future responsibility for protecting critical habitat rests with the Land Use Planning and Management Commission.

- S.502 (1) The Government of Canada will be responsible for maintaining the productivity of the public lands that support the wildlife upon which the Inuvialuit depend.

- (2) The Government of Canada will compensate the Inuvialuit community corporations for any loss in wildlife productivity or wildlife harvest that is not wholly attributable to natural variation.
- (3) The community corporations will decide upon the form of compensation which may include, but is not limited to one or more of:
 - (a) compensation in kind or substitute;
 - (b) land of equal productivity and value; or
 - (c) mitigative measures.

Comment to Section 502:

This section reinforces the Inuvialuit's goal to protect and preserve the Arctic wildlife, environment and biological productivity. It recognizes that large scale development activities can potentially reduce the wildlife populations or alter their distribution or behaviour. There are two time scales considered in this section. Firstly, there may be short-term declines in wildlife populations or harvest per-unit-effort that is directly related to development activities. When this occurs the burden of proof must lie with the development activity. In cases of disasters such as oil blow-outs the cause would be self-evident. In other cases the cause may not be clear. It is recognized that there is a great need to develop the expertise and base-line data that are necessary to establish cause and effect relationships and section 506 identifies the agency responsible. The second time scale is the gradual or long-term degradation of wildlife populations and productivity brought about by development activity, increased access, harassment or pollution. When it can be demonstrated that the decline has occurred

the provisions of section 502 will apply. The agency responsible for the design and collection of this information is defined in section 506.

S.503 Timber within the Western Arctic Region may not be cut without a permit that will be issued by the Game Council and that will be subject to terms and conditions set by them.

Comment to Section 503:

There is great concern among the Inuvialuit that the timber will not be managed properly unless there is effective control by Inuvialuit. There has been demonstrated, in the past, the tendency on the part of the Government to treat the timber in the Delta as a renewable resource. The Inuvialuit have every reason to believe that timber is not a renewable resource and should be managed accordingly. It is known that the spruce trees required hundreds of years to reach the size they are today. It is suspected that if they are cut the way they have been recently (and used for chips on well sites) that the successional stability of the Delta will be altered to effectively preclude the regrowth of the timber, and the terrain stability afforded by it.

S.504 (1) There is hereby established a Game Council.

(2) The Council shall consist of at least two representatives from each Hunters and Trappers Committee in the Western Arctic Region (including the Inuvik Hunters and Trappers Committee) with each member holding office for two years.

- (3) The terms of reference on the Game Council shall include, but shall not be limited to, the following:
- (a) advise the regional municipality and Federal government in respect to wildlife, research, management, and enforcement;
 - (b) divide the Western Arctic Region and the adjacent offshore territorial sea waters of Canada into community hunting and trapping areas;
 - (c) review and render advice to the federal and municipal governments concerning any amendments to existing wildlife legislation or any proposed wildlife legislation;
 - (d) review and render advice to the Federal Government as to any proposed Canadian position for international purposes which affects wildlife in the Western Arctic Region;
 - (e) review and advise the federal and municipal governments as to the policies or administration of their respective game management or wildlife research agencies or departments in the Western Arctic Region;
 - (f) allocate quotas for Schedule III species between subsistence, commercial and recreational usage;
 - (g) hold public hearings in the Western Arctic Region on any matters affecting the usage of wildlife;
 - (h) provide membership whenever possible to any Canadian delegation which deals with International matters affecting wildlife;

- (i) provide membership to any committee or group whose purpose is to investigate any aspect of wildlife usage in the Western Arctic Region;
 - (j) to be responsible for the management of the Reindeer Grazing Preserve,
 - (k) set aside conservation areas on Inuvialuit lands and to advise the Land Use Planning and Management Commission as to desired conservation areas on public lands;
 - (l) subject to the approval of the Minister of the Department of Environment, make regulations as to the management, harvest, and conservation of fish and marine mammals;
 - (m) subject to the approval of the Western Arctic Regional Municipality, pass regulations on polar bear, musk-ox, Schedule II animals, and all birds and mammals in Schedule III;
 - (n) appoint enforcement officers to enforce regulations,
 - (o) encourage and promote wildlife research, management, enforcement and utilization among Inuvialuit.
- (4) The Game Council will define subsistence usage for each species and set any guidelines for defining a subsistence user, the local Hunters and Trappers Committees deciding as to who is a subsistence user.
- (5) The administrative and operational costs of the Game Council will be borne by the Government of Canada for the first ten years after the signing of this Agreement, and thereafter by the Western Arctic Regional Municipality.

Comment to Section 504:

Subsections (1) and (2) establish the Game Council, and state how its members are to be chosen. Subsection (3) sets out the terms of reference of the Game Council.

S.505 (1) Each Inuvialuit community corporation shall establish a community Hunters and Trappers Committee and the conditions of membership, but the members of the Committee must be members of the Inuvialuit community corporation.

(2) The role of such a Committee shall include, but shall not be limited to, the following:

- (a) give advice to the Game Council as to all matters within its jurisdiction;
- (b) advise the Game Council as to the division of the Western Arctic Region into community hunting and trapping areas;
- (c) make representations to the Game Council as to the requirements of subsistence users in regard to Schedule I, II, III and IV species;
- (d) decide as to who is a subsistence user within the guidelines set by the Game Council;
- (e) administer and distribute the subsistence quota allocated for Schedule III species;
- (f) administer and distribute any quotas set for Schedule I or Schedule II species;

- (g) review and decide upon the granting of hunting, trapping licences in regard to Schedule II species and allocate Schedule II privileges;
- (h) decide upon the allocation of any hunting by non-Inuit in regard to Schedule I species; and
- (i) encourage and promote the Inuvialuit involvement in the conservation, research, management, enforcement and the utilization of the wildlife resources in the Western Arctic Region.

- (3) The administrative and operational costs for the Hunters and Trappers Committees will be borne by the Government of Canada for the first ten years and thereafter by the Western Arctic Regional Municipality.

Comment to Section 505:

This section provides for the establishment of community Hunters and Trappers Committees, and sets out their powers. They would be the equivalent of the Hunters and Trappers associations, where those organizations now exist.

- S.506 (1) There is hereby established a Natural Resources Research Board.
- (2) This research body will be directed by a board of directors consisting of nine members plus a chairman.
 - (3) The membership of the board will be: three from the Department of Environment, three professionals in the life sciences field from universities or from the private sector and three from the

community Hunters and Trappers committees, each member to serve for a term of five years.

- (4) The chairman will be appointed by the Minister provided he is acceptable to both the Western Arctic Regional Municipality and the Game Council.
- (5) The names of the first members of the board of directors will be included in the final agreement.
- (6) The terms of reference for the Research Board shall include, but not be limited to, the following:
 - (a) be responsible for the planning, design and co-ordination of all the wildlife resource research in the Western Arctic Region;
 - (b) advise the Game Council, the Hunters and Trappers committees, the Western Arctic Regional Municipality and the Government of Canada on wildlife management planning and practices (such as for quotas, seasons and agreements);
 - (c) prepare the technical material necessary to advise the Land Use Planning and Management Commission, the Game Council, the community Hunters and Trappers Committees, the Inuvialuit Land Corporation, the Western Arctic Regional Municipality and the Government of Canada on land use planning and management including critical habitat areas for the Western Arctic Region;
 - (d) advise the Game Council, community corporations and the Land

Use Planning and Management Commission on the management of timber and gravel;

- (e) be responsible for the design, and execution of the research and monitoring related to wildlife harvest and wildlife productivity which is particularly important for the purposes of wildlife management and compensation; and
- (f) encourage and promote public education and involvement in wildlife resource management and planning;

- (7) The capital, administrative and operational costs of the Natural Resources Research Board will be borne by the Government of Canada.

Comment to Section 506:

The preservation and proper management of the Arctic wildlife and habitat is of paramount importance to the Inuvialuit since the wildlife is a source of food, livelihood and since hunting, trapping and fishing are traditional cultural activities. This objective of conservation is important to the people of Canada generally as the Western Region is a unique ecological system that is also a producer of wildlife that benefits southern Canadians and Americans in particular, and the world generally. The loss of wildlife and habitat due to exploitive development has been documented for the Western Arctic Region. It is the considered opinion of many professionals that adequate planning and research can, in some cases, lessen or eliminate conflicts between wildlife resources and development. It is in the interests of the Inuvialuit and the Government of Canada that this be done. This section provides a vital step to achieve this goal. At present, research in the Western Arctic Region is unco-ordinated, ad hoc, often in-

conclusive and sometimes even destructive. The large scale, short-term environmental impact studies, such as those done for the Beaufort Sea offshore drilling are generally undesirable and are not a substitute for long-term, planned and co-ordinated research that has adequate financial support. The Natural Resources Research Board is also designed to provide the vital link between land management and wildlife management, for the management of the Arctic wildlife species is impossible without proper land management. This has been one of the great deficiencies in the past approach by governments. Neither the Inuvialuit nor the Government of Canada can afford to continue this untenable dichotomy of land and wildlife management that can only result in the permanent loss of many Arctic wildlife populations.

- S.507 (1) Subject to subsection (2), the Inuvialuit (and other Inuit) shall possess the exclusive right to hunt Schedule I species (polar bear, musk-ox, marine mammals) for subsistence or commercial usage within the Western Arctic Region and in the adjacent off-shore sea water or upon the adjacent off-shore sea ice.
- (2) The Community Hunters and Trappers Committees for the community hunting area affected may consent to Schedule I species being hunted by non-Inuvialuit for sport and recreational usage, subject to such terms and conditions as may be imposed by the said Hunters and Trappers Committee.
- (3) An "Inuk" as defined in wildlife legislation, in particular,

The Fisheries Act, The Whaling Act and The Migratory Birds Convention Act includes an "Inuvialuk", that is, a person who is one of the Inuvialuit.

Comment to Section 507:

The Inuvialuit (and other Inuit) will possess the exclusive right to hunt marine mammals, polar bear, and musk-ox, subject to game management practices. In fact, this is the way these species are harvested at present, and this provision would not change who hunts these animals but does provide that Schedule I animals harvested by Inuvialuit for subsistence would be controlled for management purposes. The community Hunters and Trappers Committee will have primary control here by deciding upon the distribution of limited wildlife resources among Inuvialuit and also by deciding whether some of the resources should be allocated to non-Inuvialuit, for sport hunting. In such a case, the Hunters and Trappers Committee could set fees, management practices, and other conditions.

S.508 The Government of Canada agrees that the Inuvialuit will be able to continue to hunt, trap and fish for subsistence in any manner that does not endanger the conservation of the wildlife populations.

Comment to Section 508:

The method of hunting or trapping that is considered ethical or acceptable is often determined by the cultural heritage of the people making the laws. The Inuvialuit want to be ensured that their cultural ethics and values are preserved and protected, and this provision along with sections 504 and

505 provides for this.

- S. 509
- (1) No person who does not have a license as of the signing of this Agreement-in-Principle shall be granted a license for the trapping of those species contained in Schedule II (furbearers) except upon the consent of and subject to terms and conditions set by the community Hunters and Trappers Committee for the community hunting and trapping area affected.
 - (2) The local community Hunters and Trappers Committee may restrict the exercising of those rights and privileges granted by licenses or section 507 for the purpose of wildlife management.

Comment to Section 509:

This provision freezes trapping licenses at their present level. New licenses can only be granted upon the consent of the community Hunters and Trappers Committee, and may be subject to conditions set by the local Hunters and Trappers Committee. This provision recognizes that some non-Inuvialuit now possess the General Hunting License and the Inuvialuit do not wish to revoke such privileges. However, to effectively manage the wildlife resource, the local Hunters and Trappers Committees may have to limit the number of animals harvested by setting seasons, quotas or limiting the number of harvesters. This is realistic and necessary if the wildlife populations are to be maintained in a healthy state.

- S. 510 (1) The hunting, trapping and fishing of the species contained in Schedule III shall be dealt with through quotas which shall be distributed between subsistence, commercial and recreational users by the Game Council in consultation with the community Hunters and Trappers Committees within the Western Arctic region, according to the following principles:
- (a) Priority shall be given to the requirements of subsistence users;
 - (b) In the event that the requirements of subsistence users are equal to or exceed the quota, the total quota shall be allocated to subsistence users; and
 - (c) In the event that the requirements of subsistence users are less than the total quota, the remainder may be allocated between commercial and recreational uses.

Comment to Section 510:

For most other species (those contained in Schedule III) there would not be any immediate need for quotas, but if it became necessary to impose area quotas for a particular species, the provisions of this section would come into force. There are two levels of decision-making here. First, the Game Council could give its advice to the Western Arctic Regional Government as to whether quotas are necessary for a particular species, and as to what the quota should be [see Section 504(3)(a)]. Secondly, once a quota is set, the Game Council would have the power to decide how the quota would be divided between the various uses (subsistence, commercial and recreational).

Section 510 requires the Game Council to give first preference to subsistence users, as defined by the Game Council (see Part I) and also requires the Council to seek the views of the appropriate community Hunters and Trappers Committees as to what the requirements are for subsistence users. If the Game Council decides that the whole quota is required by subsistence users, then no part of the quota would be given for commercial or recreational uses. However, if the subsistence users did not require all of the quota, the Game Council would decide how to divide the rest between commercial and recreational uses; the quota would then be administered by the government having jurisdiction over the species (section 511 (2)).

- S. 511
- (1) The quota allocated for subsistence usage according to Section 510 shall be administered and distributed by the Community Hunters and Trappers Committee in each hunting and trapping area.
 - (2) The quota allocated for commercial and recreational uses according to section 510 shall be administered by the Western Arctic Regional Municipality, or by the Fisheries Branch of the Government of Canada, in accordance with their respective jurisdictions.

Comment to Section 511:

The community Hunters and Trappers Committees would administer and distribute the subsistence quota. The commercial and recreational quota should be administered by government agencies such as the Game Department of the Municipality or the Fisheries Branch of the Federal Government. Under

this system, an Inuvialuk who does not qualify as a subsistence user (as defined by the Game Council) would have to take his chances along with other recreational users as to whether he would be allowed to hunt in a particular area.

- S. 512
- (1) No law affecting wildlife in the Western Arctic Region shall be amended or enacted by any level of government without first seeking the advice of the Game Council.
 - (2) No international obligation which affects wildlife in the Western Arctic Region shall be incurred by the Federal Government without first seeking the advice of the Game Council.
 - (3) No new commercial wildlife ventures in the Western Arctic Region such as lodges, camps, plants or factories shall be licensed by the Governments of Canada, the Territories or the Western Arctic Regional Municipality from the date of this Agreement-in-Principle except upon and according to the recommendations of the Game Council and in determining its recommendations, the Game Council shall give preference for the control of such ventures to subsistence users.

Comment to Section 512:

Subsection (1) prevents the municipal, the territorial and federal levels of government from creating new laws or changing laws about wildlife without first seeking the advice of the Game Council. Subsection (2) prevents

the federal Government from entering into international obligations affecting wildlife without first seeking the advice of the Game Council. Subsection (3) provides that no new commercial ventures regarding wildlife can be licenced by any government except upon the recommendation of the Game Council, who must give first preference for the control of such commercial ventures to subsistence users.

S. 513 Wildlife research will be conducted in the Western Arctic Region under the following conditions:

- (1) It must be recommended by the Natural Resources Research Board, or
- (2) Upon the recommendation of the Game Council or any Hunters and Trappers Committee if the research is within its area;
- (3) All research will be co-ordinated through the Natural Resources Research Board;
- (4) Any affected Hunters and Trappers Committee must be consulted by the Natural Resources Research Board before any decision to proceed is taken and may enter terms and conditions for such research;
- (5) All interim and final reports will be provided by the Natural Resources Research Board to the Hunters and Trappers Committees and others in the language of their choice.

Comment to Section 513:

The intent of this section is to promote high quality wildlife research and

the involvement of the interested Canadian public and the local people in all phases of the research.

This section assumes that wildlife research is necessary and worthwhile if it is planned, co-ordinated and conducted in a manner that involves the hunters and trappers and other interested people, and is not damaging to the wildlife populations.

This section also recognizes that wildlife research that is well planned, executed, and co-ordinated, and the information derived is made available to the Inuvialuit is desirable and should be encouraged. A permit system might be instituted to achieve these goals. If this were done the control would be vested in the Natural Resources Research Board and this would have several advantages over the present "Scientists Ordinance" of the N.W.T. Firstly, the research would be evaluated by a technical group that would use objective criteria. The second advantage is that the Research Board would provide the liaison between any researcher wanting to do research in the Western Arctic Region, and the people and interested groups in that region. The Research Board would have the responsibility to consult with the local groups before the research is approved and subsequently to provide the information learned from the research to the concerned local groups. This should better serve the interests of research, the research scientists and the Inuvialuit.

- S. 514
- (1) The Government of Canada recognizes and agrees that the spring hunting of migratory birds by Inuvialuit is traditional and is important for the Inuvialuit.
 - (2) The Government of Canada and the Game Council will

undertake to legalize and regulate the spring hunting of migratory birds by Inuvialuit in the Western Arctic Region.

- (3) The Inuvialuit with the co-operation of the Federal Government will undertake to collect data on the spring migratory bird harvest that are necessary for the Government of Canada to enter into new international agreements or renegotiate old agreements that recognize and legalize, expressly, the spring hunting of migratory birds by Inuvialuit, and in quantities that reflect the Inuvialuit way of life; and the Government of Canada agrees that domestic legislation will be enacted to incorporate such new or renegotiated international agreements as laws of Canada.
- (4) The Government of Canada expressly guarantees that there will be no prosecution of the Inuvialuit for the traditional spring hunt of migratory birds under the Migratory Birds Convention Act until such time as new international agreements are enacted as set forth in subsection (3).

Comment to Section 514:

This section recognizes that the present Migratory Birds Convention Act, enacted in 1917 (did provide certain benefits to Inuit but) did not provide for the traditional spring hunting of some migratory birds that are important to the Inuvialuit. The Government of Canada recognizes

that this omission has been unfair to Inuvialuit, and does not reflect the reality of the North.

In spite of the law the spring hunting of these migratory birds has continued in the north which demonstrates that the bird populations are able to sustain such hunting. But because of the Act, management data that are necessary for any new international treaties have not been collected. It is thought this information would never be collected if there were a threat of prosecution under the present law. It is the intention of this section to provide a solution for a situation that neither the Government of Canada nor the Inuvialuit enjoys.

- S. 515
- (1) The Hunters and Trappers Committees, jointly with the Game Council will divide the whole land area and adjacent waters in the Western Arctic Region into community hunting and trapping areas.
 - (2) Hunting, trapping and fishing subsistence in the offshore area will be under the control of the Game Council.
 - (3) The Game Council may designate certain offshore areas to any Hunters and Trappers Committee for any species for any period of time.
 - (4) Where a community hunting area of one Inuvialuit community corporation embraces an area that overlaps with the community hunting area of another Inuvialuit community corporation, then the consent of each of the Hunters and Trappers Committees for the respective Inuvialuit community corporations shall

be required for any matter, in so far as it relates to the overlapping area, within the power of a Hunters and Trappers Committee as provided by this Part.

- (5) Any person or recognized Hunters and Trappers organization that is outside of any community Hunters and Trappers Committee's area may apply to that Hunters and Trappers Committee for hunting or trapping privileges in that area. Those privileges may be extended on the basis of reciprocity. It is also expected that a criterion for refusal would be for reasons of game management.

Comment to Section 515:

This section puts the primary responsibility for effecting game management with the local Hunters and Trappers Committees. It makes provisions for reciprocal agreements and access by those outside the community Hunters and Trappers areas. It also recognizes that hunters have characteristically moved over large areas in the pursuit of different animal species. Many of those animal species (polar bear, whales, fish, caribou, and birds) will be managed co-operatively by the Game Council (regional) and the community Hunters and Trappers Committees (local).

- S. 516 (1) The Game Council may set harvest seasons or quotas on Schedule I, II, III species, subject to approval of the required governmental authority; for greater

certainly however such seasons or quotas, for Schedule I, II, III, species cannot exceed those set by federal or international agreements.

- (2) The setting of seasons and quotas for Schedule IV, that is, migratory birds, will be done by a technical committee consisting of representatives of the Game Council and the Canadian Wildlife Service.
- (3) Subject to the approval of the Municipal Government the Game Council may set regulations to protect rare and endangered animals (Schedule V).
- (4) If the Game Council fails to make seasons or quotas:
 - (a) The Government of Canada may determine the number of animals or seasons for marine mammals, fish and migratory birds which may be hunted, in order to achieve conservation;
 - (b) The Western Arctic Regional Municipality may determine the number of animals or seasons for polar, black and grizzly bears, fur bearers, musk-ox, caribou, (subject to section 517) and birds and mammals in Schedule III which may be hunted or trapped, in order to achieve conservation;
 - (c) Prior to acting under subsection (a) or (b) the government in question shall seek the advice of the Game Council.

Comment to Section 516:

This section determines the process for the setting of seasons or quotas to achieve conservation. The final authority for setting quotas or seasons for species presently controlled by the federal government will remain with the federal government. The Game Council can restrict the seasons or quotas on any species in Schedule I, II, or III for the purpose of conservation. The setting of seasons or quotas and other regulations with respect to migratory birds (Schedule IV) will be done through a technical committee consisting of the representatives of the Game Council and the Canadian Wildlife Service. This section also makes provisions for the situation when the Game Council may not set seasons or quotas that are required. However no government can set seasons or quotas without first seeking the advice of the Game Council.

- S. 517
- (1) The caribou herds in the Western Arctic Region will be managed individually and separately.
 - (2) For each herd a management agreement will be undertaken by all of the jurisdictions whose land supports the herds or whose people traditionally harvest the caribou for subsistence.
 - (3) The Game Council will make recommendations to the Federal and Municipal Governments on the nature of agreements that will include, but are not limited to, the following:
 - (a) the objectives of the agreements will include the maintenance of the largest viable caribou

- populations in their migratory pattern;
- (b) the integration and co-ordination of land management and caribou management;
- (c) the users must agree on how to arrive at the number of caribou that can safely be harvested;
- (d) the users must agree on sharing and distributing the fraction of the resource that can be safely harvested, regardless of the jurisdiction of the harvest;
- (e) in co-operation with other resource management groups to develop a system of alternate wildlife resource sharing to supply the nutritional needs of people when caribou are scarce;
- (f) research objectives;
- (g) agreements on co-operative research funding;
and
- (h) agreements to control the access to caribou herds.

Comment to Section 517:

This section provides a method, in some detail, for the successful management of the caribou herds in the Western Arctic Region. It is generally recognized that the caribou herds are vitally important to the Inuvialuit and other native peoples for food, clothing and to some extent, cash. It is

not often recognized that the science of caribou management is in its infancy. It is unlikely that we know enough to manage the caribou successfully with even the present level of development activity in the Western Arctic, and certainly not enough to ensure the survival of the Porcupine caribou herd should a pipeline be built across the North Slope of the Yukon Territory. Section 517 is based on several scientific management concepts that are not always recognized by governments or industry. If the caribou are to be preserved the management of the land habitat is essential. Caribou cannot be managed if they are relegated only to the habitat that is left over from other competing interests. The quality and quantity of the caribou habitat must be maintained. The next priority for caribou management is the control of the harvest. Because the caribou populations fluctuate, the number of caribou that can be safely harvested changes also. However the demand for caribou remains fairly constant for any given number of people. It is expected that this demand will increase in the future. Therefore, national and international agreements must be reached that will insure that the demand for caribou is supplied to the extent it is possible and in an equitable way. It must also provide means for filling the nutritional requirements of people from time to time when the caribou cannot fill the demand. It is suggested that other wildlife resources should be managed in conjunction with caribou to provide alternate food sources when caribou are scarce.

S. 518 Any net income from the issuance of hunting licenses for
Schedule I species or for issuance of trapping licenses for
Schedule II species shall accrue to the benefit of the

Inuvialuit community corporations, and shall be collected by the Western Arctic Regional Municipality and paid to the Inuvialuit community corporations, in accordance with the directions of the Game Council.

S. 519 Part Five of this Agreement will be put into effect as quickly as possible upon the signing of this Agreement-in-Principle in accordance with a timetable to be agreed upon by the Parties.

SCHEDULE I

All marine mammals

Polar Bear

Musk-ox

SCHEDULE II

All fur-bearing animals including

Black Bear

Grizzly Bear

SCHEDULE III

Caribou

All birds and mammals that are not in Schedules

I, II, or IV that are or have been taken for

subsistence.

All fish that are or have been taken for

subsistence.

SCHEDULE IV

All migratory birds that are or have been taken

for subsistence.

SCHEDULE V

All rare or endangered birds or mammals that are

not covered in Schedules I - IV (such as gyr

falcons, peregrine falcons, ospreys and bald

eagles).

PART SIX
INUVIALUIT LANDS



Preface to Part Six

INUVIALUIT LANDS

We, the Inuvialuit, are an integral part of the lands and waters we use and occupy. The prime focus of a land rights settlement must be upon the retention of lands by the Inuvialuit as owners.

The Inuvialuit have a legal and moral basis to retain their lands. Moreover, it is good public policy for the settlement to focus upon the retention of lands by the Inuvialuit. The Inuvialuit identity is a land-based identity: the retention of lands enhances the cultural identity of the Inuvialuit and better assures a continuation of their traditional means of livelihood. Also, as owners, we are better able to protect the wildlife and environment.

Just as land is the essential element of the past, it is the cornerstone for the future. The new, changing north is that of a non-renewable resource based economy. The Inuvialuit must have lands so that they will have the means to bridge into the new society. Only through having the resources to self-develop can the Inuvialuit have equality of opportunity. They cannot be simply labourers or welfare recipients, spectators on the sideline watching strangers take their lands. Frustration, loss of pride, hostility, and social disintegration would be the inevitable result. The mistake of two hundred years of native - non-native relationships in southern Canada would be repeated in the north. The Inuvialuit must be owners and managers. We must be able to participate, to learn by experience, through managing what is rightfully ours.

We realize we cannot retain all of our lands and waters. We realize that the Government of Canada insists upon utilizing northern lands

for oil and gas development. We do not agree with this policy, but we recognize its presence.

Therefore, being realists, we have chosen "Inuvialuit lands" so that there will be relatively minimal interference with oil and gas development. The areas selected as Inuvialuit lands are outside the areas of known discoveries or high potential for discovery. Moreover, while the Inuvialuit insist on being owners in fee simple absolute, we have excepted oil and gas so that oil and gas rights are in the public domain and if and as development takes place, will benefit all Canadians. The Inuvialuit are not being obstructive to oil and gas, or pipeline development. They are retaining only some of the lands that are vital to them. The barren lands of the tundra are virtually worthless in southern market value terms, except for oil and gas.

Therefore, the virtues of the approach of Part Six are several. First, the retention of "Inuvialuit lands" by the Inuvialuit is the critical element underlying a fair, and meaningful land rights settlement from the standpoint of both good public policy and fairness to the Inuvialuit. Second, the lands chosen cause minimal interference with competing interests. Third, there is certainty at the point of the Agreement-in-Principle as to virtually all of the lands to be owned by the Inuvialuit and the nature of that ownership through a settlement. Both parties will know at the time of signing this Agreement that their essential interests are met.

PART SIX

Inuvialuit Lands

- S.601
- (1) Subject to subsection (3), the Inuvialuit are entitled to the lands set forth in Schedule "D" to which they will have the estate in fee simple absolute, except for oil and gas.
 - (2) Subject to subsection (3), the Inuvialuit will be entitled to select a further 3,000 square miles of lands in the Western Arctic Region to which they will have the estate in fee simple absolute, except for oil and gas.
 - (3) Lands owned by the Inuvialuit pursuant to subsections (1) and (2) will not include existing federal military installations and one square mile of the land upon which the installation is situated.
 - (4) The land selection process for the 3,000 square miles as provided for in subsection (2) will be that set forth in sections 602 and 703.

Comment to Section 601:

1. Ownership of lands will serve several functions: help retain Inuvialuit identity, as it is a land-based identity; help retain Inuvialuit identity, and livelihood by protecting lands for hunting, fishing and trapping through controlling the extent and nature of development activities; help to protect Inuvialuit identity by controlling the nature and extent of community growth; involve Inuvialuit in oil and gas development activities through greater participation - achieved through "agreements of consent"; and provide the Inuvialuit with a resource and economic base which they can utilize if and when they choose to be developers. The Inuvialuit

Land Corporation, as owner, will have to give its approval for development.

2. Inuvialuit lands are given as much protection as possible from encroachment, a special Act of Parliament being required if there is to be an expropriation - section 612, and the lands are to be exempt from property taxes - subsection 202(3).
3. The settlement is contemplated on a basis that gives Inuvialuit some control through ownership of lands, but there is no restriction upon oil and gas development beyond Inuvialuit lands, other than regulation through a public entity - the Land Use Planning and Management Commission. Royalties payable to the Inuvialuit from oil and gas throughout the Western Arctic Region are set at 3 per cent. Thus, the Government, industry and public know precisely what royalty benefits accrue to the benefit of the Inuvialuit.

- S.602 (1) The Committee for Original Peoples' Entitlement, in consultation with the Inuvialuit community corporations and the Inuvialuit Land Corporation, will conclude with the Government of Canada from time to time, but not later than by 1992, agreements in which the specific geographical location of the Inuvialuit lands referred to in subsection 601(2) will be determined, with the following rules applying:
- (a) all of such lands will be situated within the Western Arctic Region;
 - (b) the Committee for Original Peoples' Entitlement will select blocs of lands from time to time, such selections being supported with a statement setting forth

the reasons for each selection;

- (c) if the Government of Canada has not objected to any selection by the Committee for Original Peoples' Entitlement within two months after notice, the selection of the bloc or blocs will be considered approved;
- (d) if the Government of Canada has an objection to a selection it will set forth its reasons for the objection in writing to the Committee for Original Peoples' Entitlement before the end of the two-month period as set forth in paragraph (c), such objection also outlining the area of equal value nearest to the bloc rejected in respect to which the Government of Canada would not have objections against a selection;
- (e) thereupon, the Committee for Original Peoples' Entitlement will have the option either of making a new selection, taking into account the objections of the Government, or to request negotiations as to the bloc or blocs upon which the Parties cannot agree;
- (f) where the Parties are unable to come to agreement as to the selection of a bloc by the Committee for Original Peoples' Entitlement within three months of the commencement of such negotiations, or the refusal of the Government to negotiate, the matter shall be referred to arbitration as provided for in section 206.

S.602

- (2) The Committee for Original Peoples' Entitlement, in consultation with the Inuvialuit Land Corporation and the Inuvik and Aklavik Inuvialuit community corporations, will select lands so far as possible that are relatively proximate to either the "new settlement"

or Aklavik, rather than to the other Inuvialuit communities.

- (3) The Committee for Original Peoples' Entitlement will select lands subject to existing alienations.
- (4) The Committee for Original Peoples' Entitlement may turn over its responsibility under this section to the Inuvialuit Land Corporation at any time.

S.603

Land selections by the Committee for Original Peoples' Entitlement will include the following preferences:

- (a) lands of importance for reasons of biological productivity, or of importance for traditional pursuits including hunting, trapping and fishing;
- (b) areas that might contain sand and gravel deposits or other construction materials, gold placer and other placer deposits, deposits of soapstone or precious stones, or any other minerals or rocks that can be mined;
- (c) areas that could be important for the future development of tourism or that could offer other economic opportunities for Inuvialuit;
- (d) areas which could be important for the production of the wildlife and protection of the habitat;
- (e) areas with historic Inuvialuit sites or burial grounds;
- (f) any areas which are of special importance to the Inuvialuit communities or the Inuvialuit as a whole; and
- (g) any areas which might be used by new Inuvialuit communities to be created in the future.

- S.604 Subject to section 605, each Inuvialuit community corporation may select up to 400 square miles of Inuvialuit lands, to which the community corporation will have the estate in fee simple absolute to the surface to a depth of twenty feet.
- S.605 The Inuvialuit Land Corporation will have the subsurface estate in fee simple absolute, except for oil and gas, to those lands selected by the community corporations pursuant to section 604.
- S.606 The selection of lands for each community corporation pursuant to section 604 will exclude any area up to, but not more than, one square mile which comprises the existing developed community itself (called the "community site"), sites comprising Federal Government installations such as airports or power stations adjacent to the community but not within the "community site", and existing public roads, provided however, that the 25 yards of shore landward of the high water mark, together with that portion of the shore between the high water mark and the low water mark, within each community site will be deemed to be public lands, upon and across which any person will have access.
- S.607 Except for the estate in fee simple absolute to the surface to a depth of twenty feet in respect to the 400 square miles selected by each Inuvialuit community corporation as provided for in section 604, all Inuvialuit lands are owned by the Inuvialuit Land Corporation as an estate in fee simple absolute, except for oil and gas.

- S.608 The Inuvialuit Land Corporation must obtain the consent of the Game Council for any proposed development activities on Inuvialuit lands and the consent of the Inuvialuit community corporation when development is proposed to take place in respect to the subsurface estate underlying the surface estate of that community corporation.
- S.609 Subject to the provisions of Part Seven, the approval of the Inuvialuit Land Corporation is required as a prior condition to any oil and gas development activities related to its lands, and the corporation may make such approval conditional upon an "agreement of consent".
- S.610 Without limiting the generality of the foregoing, an "agreement of consent" might include:
- (a) provisions in respect to social, economic, managerial or financial participation by the Inuvialuit Development Corporation or an Inuvialuit community corporation in the development activities.
 - (b) a provision to ensure satisfactory social and labour conditions for the Inuvialuit participating in the activities;
 - (c) provisions to reduce or avoid undesirable impacts of the activities on Inuvialuit communities or Inuvialuit lands, and appropriate compensation for any possible damage;
 - (d) a provision that correspondence with Inuvialuit, instructions for Inuvialuit labour and any other documents related to the operations and of relevance to the Inuvialuit shall be printed in a local dialect of the Inuvialuit; and

- (e) an agreement on any other matters which might be of importance to the Inuvialuit.

S.611

The Government of Canada hereby agrees not to issue any oil and gas permits or land use permits or renewals of oil and gas leases in respect to Inuvialuit lands, without having received from the Inuvialuit Land Corporation a statement that:

- (a) an agreement of consent has been concluded with the applicant for the particular oil and gas rights or land use permit; or
- (b) the Inuvialuit Land Corporation has satisfied itself that it does not require any such agreement of consent as a condition precedent to such activities.

S.612

- (1) No part of Inuvialuit lands may be expropriated other than by a special Act of Parliament and any such expropriation must provide for fair compensation in the form of suitable alternative land, or money on the basis of fair market value because alternative land satisfactory to the expropriated owner is not available.
- (2) For greater certainty, if compensation is in the form of money, it must include the value of the loss of hunting, trapping and fishing.

S.613

The net proceeds of the sale or lease of any interest in Inuvialuit lands shall be payable by the purchaser or lessee to the Inuvialuit Investment Corporation and Inuvialuit Development Corporation on the following basis:

- 75% to the Inuvialuit Investment Corporation
- 25% to the Inuvialuit Development Corporation

and this provision will be deemed by law to be a part of any sale or lease agreement.

S.614 Each Inuvialuit community corporation within the Western Arctic Region will own all the sand and gravel within a thirty mile radius of the Inuvialuit community, to be removed subject to any governmental regulations, and to be used mainly in the community.

- S.615
- (1) The Inuvialuit Land Corporation and the Government of Canada may by agreement exchange lands from time to time;
 - (2) Any lands received by the Inuvialuit Land Corporation through exchanges as contemplated by subsection (1) and any lands received by the Inuvialuit Land Corporation as compensation pursuant to subsection 502(3) or subsection 612(1) will be deemed to be "Inuvialuit lands" for the purposes of this Agreement.

Comment to Section 615

This provision allows for flexibility. For example, the Inuvialuit may want to exchange lands with the Government because of alteration of wildlife movements, and if the Government is agreeable, this can be done and the new lands received become "Inuvialuit Lands". This would mean the new lands are free of property taxes as provided in Part Two.

S.616 If and when the Government of Canada wishes to dispose of Dewline sites in the Western Arctic Region the sites will be transferred free of charge by way of an estate in fee simple absolute, except for oil and gas, to the Inuvialuit Development

Corporation and subject to the same protection afforded other
Inuvialuit lands as provided in section 612 and section 202.

PART SEVEN
EXISTING ALIENATIONS

Preface to Part Seven

EXISTING ALIENATIONS

Much of the Western Arctic Region has some oil and gas potential. Indeed, there have been discoveries, both on-shore and off-shore. Oil and gas activities are in direct conflict with the land use of the Inuvialuit. The Government has granted oil and gas permits over much of the region. Inuvialuit property rights have not been expropriated: nor have they been sold or surrendered. Fairness and sound public policy suggest that their rights should have been dealt with before any alienations were made to developers. In Alaska, there was a freeze on alienations from 1966 to the end of 1971, when the legislation was passed settling native land rights.

In our view, the Canadian Government has violated the due process provisions of The Canadian Bill of Rights in ignoring Inuvialuit property rights. The Department of Indian and Northern Affairs has been irresponsible in not protecting Inuvialuit property rights but rather doing the very opposite, by creating and encouraging competing interests. The Government has created the problem of existing alienations.

The Inuvialuit recognize the present difficulty in cancelling rights given by the Government to developers. Therefore, "Inuvialuit lands" have been chosen to cause relatively minimal interference to competing interests. Existing oil and gas discoveries are not included, nor areas where there is a relatively high potential for discovery. However, there may be a cancellation of alienations (with compensation by the Government to adversely affected third parties) in respect to Inuvialuit lands. The Inuvialuit will not own the oil and gas anywhere in the Western Arctic Region. There can be oil and gas development in respect to Inuvialuit lands with an "agreement of consent" as a condition of entry. The Inuvialuit will be able to control the pace and nature of development on their lands.

PART SEVEN

EXISTING ALIENATIONS

- S.701 (1) Subject to section 702, any owner of valid oil and gas, coal or mineral rights issued before May 13, 1977, will be entitled to continue to enjoy all rights contained in the exploratory license, permit or lease.
- (2) Subject to section 702, any holder of a valid land use permit issued before May 13, 1977, will continue to enjoy the rights contained in such permit.
- S.702 (1) The Government of Canada agrees that in respect to Inuvialuit lands set forth in Schedule "D", any existing oil and gas, coal or mineral rights, and land use permits,
- (a) are to be extinguished; or
- (b) may only be continued on the basis of additional conditions as set forth in an agreement of consent.
- (2) The Government of Canada agrees that it will compensate the affected owners of rights for any loss or damage which results from extinguishments or changes made according to subsection (1).

Comment to Sections 701 and 702

1. These provisions confirm existing alienations in respect to lands in the Western Arctic Region except for those Inuvialuit lands set forth in Schedule "D". The cancellation of rights will not cause significant problems. Inuvialuit lands have been determined by the Inuvialuit with the consideration of minimizing the problem of cancelling existing alienations. Thus, areas such as Parsons Lake or Atkinson Point where

there have been petroleum discoveries are not included as Inuvialuit lands. Schedule "D" includes areas such as Cape Bathurst and Husky Lakes where there are oil and gas rights held by developers, but there have been no discoveries to date. The Inuvialuit do not want any development in these areas, at least for the foreseeable future. The Inuvialuit, being realists, have not selected areas where the interest of the oil and gas industry is significant. The Inuvialuit have selected areas that are of relatively high value to them but of relatively low value to the petroleum industry. The Inuvialuit have purposely not selected certain areas which are very important to them, simply because such areas have a relatively high importance to the oil and gas industry.

2. The Government will argue strenuously against any extinguishment of existing rights, even though this proposed settlement confines such extinguishment to a relatively small area of the Western Arctic Region and confines extinguishment to areas which minimize the problems caused by extinguishment. To the extent there is a problem, the Government has itself created the problem by its misguided policies. In contrast to Canada, both the United States [Alaska] and Australia [Northern Territory] put a temporary freeze upon the issuance of new alienations, to better avoid the problems caused by further alienations prior to land rights settlements. It is only the Government of Canada that unilaterally deals with native peoples' lands today without either a prior agreement extinguishing their rights or a formal expropriation having taken place.

S.703 The Government agrees that before issuing new oil and gas rights, coal or mineral permits, licenses or other such rights after the signing of this Agreement, the Inuvialuit will have the prior right for six months after knowledge of the Government's intention, to initiate the land selection process as provided for in Part Six for the lands that would be affected by the intended Government action, and the Government further agrees not to issue any new rights until after six months or the completion of the land selection process, whichever first occurs.

- S.704
- (1) Any Inuvialuk who has paid monies to the Government of Canada, the Government of the Northwest Territories, or any municipal government entity in the Northwest Territories, for the purchase of any interest in lands in any Inuvialuit community prior to the date of signing the Final Agreement, shall be refunded the said monies together with interest at six percent thereon (calculated from the date of payment) by the Government of Canada within one year following the date of signing the Final Agreement.
 - (2) The monies refunded to Inuvialuit under subsection (1) shall not include any monies paid for buildings or other improvements to the land at the time of sale.
 - (3) All Inuvialuit who receive refunds under subsection (1) shall retain any interest to the lands conferred under such contracts of sale, and any outstanding obligations of indebtedness to any level of government for the purchase of such interests in lands shall be extinguished as of the date of signing the Final Agreement, and any inchoate interests

to lands under such contracts of sale to Inuvialuit purchasers will become vested in the purchasers as of the date of signing the Final Agreement.

Comment to Section 705:

It is doubtful that there are many instances where Inuvialuit have paid the Government to buy land that is really their own, and it is probable that the amounts of money in any such instances would not be significant. The principle underlying this provision is much more significant than its practical significance.

S.706 (1) The Inuvialuit (without in any way implying qualification of their continuing opposition to a Mackenzie Valley Gas Pipeline) agree that they will not receive compensation for any right-of-way for a Mackenzie Valley gas pipeline which crosses the lands in Schedule "D" which lie between the Alaska border and the Mackenzie River, provided however, the Inuvialuit will receive full compensation for the entire right-of-way in so far as it traverses Inuvialuit lands, including the lands which lie between the Alaska border and the Mackenzie River, should either a right-of-way be given for what is known as a "cross-Delta route" or should an oil pipeline ever follow that gas pipe line right-of-way or should a permanent road be built along the right-of-way.

Comment to Section 706:

The Inuvialuit are opposed to a Mackenzie Valley gas pipeline on social and environmental grounds. Should the Government decide to permit a pipeline,

the Inuvialuit insist that there be no authorization until there is an Inuvialuit land rights settlement. Further, the Inuvialuit very strongly oppose in particular a cross-Delta route for the pipeline, as such a route would have the most severe and adverse repercussions for the environment and the wildlife utilized by the Inuvialuit. The Inuvialuit are very strongly opposed to any pipeline crossing the north slope of the Yukon as well. However, if the Government does give approval to a gas pipeline following such route, it should not thereby give automatic approval for an oil pipeline or a permanent road as well. Both these developments would be totally unacceptable to the Inuvialuit on social and environmental grounds.

PART EIGHT
INUVIALUIT INVESTMENT CORPORATION
AND
INUVIALUIT DEVELOPMENT CORPORATION

Preface to Part Eight

INUVIALUIT DEVELOPMENT CORPORATION

and

INUVIALUIT INVESTMENT CORPORATION

The two corporations contemplated by this Part receive the royalty resulting from any oil and gas development. The Inuvialuit Development Corporation is a holding corporation, and serves as a means to enable Inuvialuit to participate in businesses and development activities, through providing management expertise and financing.

The Inuvialuit Investment Corporation is intended as a conservative investment corporation that will invest its share of the royalty for the long-term benefit of Inuvialuit. There are tight restrictions upon the distribution of capital (royalties) or profits in respect to both corporations.

The internal structure of the corporations is unique, but consistent with laws of general application. Four points are important. First, there is not any notion of 'special status' in respect of these corporations. Second, the balancing of interests between Inuvialuit communities and individual Inuvialuit is taken into account in the structuring of control and ownership of the corporations. Third, we want to be certain that succeeding generations of Inuvialuit participate in the benefits of the Inuvialuit land rights settlement. A life-interest in the equity of the corporations is given to individual Inuvialuit, but the problems of 'status' under the present Indian Act are avoided. Finally, there is flexibility such that the corporations can adopt to changing values and conditions in the future.

PART EIGHT

INUIVALUIT DEVELOPMENT CORPORATION

AND

INUIVALUIT INVESTMENT CORPORATION

S.801 The Inuvialuit Development Corporation and the Inuvialuit Investment Corporation will be established as business corporations pursuant to the laws of Canada.

Comment to Section 801:

The functions of the Inuvialuit Development Corporation and Inuvialuit Investment Corporation are threefold: 1. be the means for the collection of royalties through the development of oil and gas in the Western Arctic Region; 2. through this wealth, be the means to enable the Inuvialuit to better participate in businesses, including renewable resource development, at the local community level, through financing and providing management expertise to community businesses; and 3. provide a fund for succeeding generations of Inuvialuit whereby they will be assured of participating in the benefits of the land rights settlement. Thus, the Inuvialuit Development Corporation is to be a 'holding corporation', and the Inuvialuit Investment Corporation is to be an 'investment corporation'.

- S.802 (1) The Inuvialuit Development Corporation will have two classes of shares, consisting of:
- (a) Class A shares, being voting, non-participating, non-transferable shares; and

- (b) Class B shares being:
 - (i) of no par value and without any voting rights; and
 - (ii) of a life-interest only, terminating on death, and non-transferable, other than to the corporation if the corporation is prepared to purchase the shares.
- (2) One Class A share will be issued to each Inuvialuit community corporation when it has been established in accordance with section 201.
- (3) No person may be a director of the Inuvialuit Development Corporation and at the same time be a director of the Inuvialuit Investment Corporation.
- (4) There cannot be any reduction and distribution of capital of the Inuvialuit Development Corporation without the unanimous consent of the Class A shareholders.
- (5) The Inuvialuit Development Corporation may pay out of its profits the annual operating expenses of each Inuvialuit community corporation for its activities, provided the budget for the community corporation has received the prior approval of a majority of the directors of the Inuvialuit Development Corporation.

- S.803 (1) The Inuvialuit Investment Corporation will have two classes of shares, consisting of:
- (a) Class A shares, being voting, non-participating, non-transferable shares; and
 - (b) Class B shares being:
 - (i) of no par value and without any voting rights; and
 - (ii) of a life-interest only, terminating on death, and non-transferable, other than to the corporation if the corporation is prepared to purchase the shares.
- (2) There cannot be any reduction and distribution of capital of the Inuvialuit Investment Corporation without the unanimous consent of the Class A shareholders.
- S.804 (1) Every Inuvialuk is entitled upon enrollment as determined by Part Three, and upon having reached the age of 18 years, to be issued one Class B share of the Inuvialuit Investment Corporation and one Class B share of the Inuvialuit Development Corporation.
- (2) Every person upon reaching the age of 18 years, one of whose parents was issued a Class B share in the Inuvialuit Investment Corporation is entitled to be issued one Class B share of the Inuvialuit Investment Corporation.
- (3) Every person upon reaching the age of 18 years, one of whose parents was issued a Class B share in the Inuvialuit

Development Corporation is entitled to be issued a
Class B share in the Inuvialuit Development Corporation.

Comment to Sections 802, 803, 804

1. The basic idea is to give control of the Inuvialuit Development Corporation and the Inuvialuit Investment Corporation to the six or seven Inuvialuit communities through their community corporations. The communities will have the voting shares and can determine who will be the directors of the Inuvialuit Development Corporation and the Inuvialuit Investment Corporation. The major benefits of these corporations will accrue through the royalties received and the investments and projects undertaken. Because the communities will control the two corporations they will be able through the election of directors, to determine if and when any of the profits made are distributed to the Class B shareholders. Only Class B shares participate in corporate distributions. Therefore, ownership [Class B shares] of that corporation is divorced from control [Class A shares]. This provides good checks and balances as between communities and individuals, and yet provides flexibility. The directors can distribute dividends [assuming solvency] and all individual Inuvialuit [Class B shareholders] participate equally. The function of the Inuvialuit Development Corporation is to give Inuvialuit and their communities the opportunity to participate in all types of businesses. However, no dividends can be distributed by the Inuvialuit Development Corporation for five years. There are constraints upon the distribution of dividends by the Inuvialuit Investment Corporation as well: section 806.

S.805 There will be no corporate distributions by the Inuvialuit Development Corporation for a period of five years after the signing of the Final Agreement.

S.806 For the first twenty years, any royalties of the Inuvialuit Investment Corporation will be invested in:

- (a) Canadian bond issues;
- (b) Canadian financial institutions; or
- (c) the creation or continuation of firms which are at least 51 percent Canadian-owned or become 51 percent Canadian-owned through such an investment;

and profits upon such investments during such period will be re-invested in accordance with the requirements set forth in this section for the investment of royalties.

Comment to Section 806:

This provision means that for twenty years, all profits of the Inuvialuit Investment Corporation will have to be re-invested. Thus, the basic objective of the corporation will be better achieved, the building up of a fund for the benefit of succeeding generations of Inuvialuit. However, this does mean that many older people who are shareholders will never receive any monies through dividends: however, their children or grandchildren should have greater benefits accordingly.

S.807 The Inuvialuit Development Corporation and the Inuvialuit Investment Corporation will have their head offices in an Inuvialuit community.

S.808 The Inuvialuit Development Corporation may assume an important role in participating in scientific research and development projects in relation to Inuvialuit lands and to facilitate this role, the Government of Canada agrees hereby to make available, free-of-charge, to the Inuvialuit Development Corporation the results of any relevant published or internal reports of any scientific studies done, financed or subsidized by the Government of Canada.

S.809 The Inuvialuit Development Corporation may organize Inuvialuit for the purpose of facilitating their employment in non-renewable resource development and the Government agrees to use its best efforts to give such Inuvialuit a preferential right to employment as provided for by International Labour Organization Convention #111 and the Government's Pipeline Guidelines.

S.810 In order to ensure that the Inuvialuit Development Corporation can develop long term economic opportunities based on the use of natural gas and its by-products in the Western Arctic Region, the Government shall reserve ten billion cubic feet of economically recoverable natural gas in developed gas fields and make this volume available to the Inuvialuit Development Corporation at a rate of production as determined by the Inuvialuit Development Corporation at the reference price in accordance with Section 903.

S.811 Any by-products that will be flared or wasted from the production of oil or gas in the Western Arctic Region will be made available to the Inuvialuit Development Corporation at its request and without cost.

- S.812
- (1) It is hereby agreed that because oil and gas operations may create a local inflation rate far in excess of an average yearly inflation rate for Canada as a whole and the Inuvialuit in the Western Arctic Region should not bear the costs of such excessive inflation, that the Inuvialuit Development Corporation will create the following corporations;
 - (a) a corporation with the objective to supply food, clothing and materials in each of the communities;
 - (b) a corporation with the objective of constructing and maintaining houses and supplying the necessary materials and fuels; and
 - (c) a corporation with the objective of organizing travel and transport.
 - (2) The Government and the Inuvialuit Development Corporation will monitor the inflation rate in the Western Arctic Region and Canada as a whole and the Government hereby agrees to subsidize the corporations referred to in subsection (1) to such extent that the prices of services and materials provided by these corporations

exceed average Canadian prices in the provinces for such services and materials due to inflation.



PART NINE

ROYALTIES



Préface to Part Nine

ROYALTIES

We, the Inuvialuit, will give up our property rights to oil and gas throughout the Western Arctic Region by this Agreement-in-Principle. In exchange we are to receive a three percent royalty from any oil and gas development. This royalty right is like any property right owned in Canada. There is nothing unusual or exceptional about it. The amount is reasonable. A fundamental premise is that the Inuvialuit will benefit only to the extent that there is oil and gas development. We do not want cash handouts. If there is not a Mackenzie Valley gas pipeline (and we are opposed to such a pipeline) then it is very unlikely there will be any oil and gas development for the foreseeable future at least, and the royalty provision will not result in any cash flow. If there is to be a pipeline, and oil and gas development, the Inuvialuit should share in the benefits, for it is our property that is being utilized.

Thus, the Inuvialuit land rights settlement proposal gives certainty to the Government, industry and public as to what lands will be retained by the Inuvialuit (Part Six), the extent to which existing alienations are affected by the settlement (Part Seven), and the royalty benefits to the Inuvialuit from oil and gas development (Part Nine). The proposal is fair and reasonable, represents desirable public policy, and offers a resolution of issues that is practical.

PART NINE

ROYALTIES

S. 901 As of May 13, 1977, the Inuvialuit will be entitled to a royalty, payable in dollars, or payable in kind if requested, directly from Her Majesty the Queen in Right of Canada, equal to three percent of the reference value calculated according to section 902, of all oil and gas derived from the Western Arctic Region, including for greater certainty, from any areas therein comprising the seabed and subsoil seaward from the low water mark of the Northwest Territories and the Yukon Territory and in respect to which Canada has the right to explore and exploit the said oil and gas and other natural resources.

Comment to Section 901:

1. The royalty provision has three basic premises: (1) Royalties should accrue from development over the whole of the Western Arctic Region [including offshore]. Inuvialuit land use and occupancy extends to a considerable offshore area. Moreover, extension of the royalty to the offshore spreads the risk and means a lower percentage can be claimed. If a royalty from offshore development were not claimed, the Inuvialuit would insist upon a much higher royalty than 3 percent from onshore development. (2) The royalty is expressed as a fixed percentage, is a right not limited in years [what would be in effect, a monetary limit] or by a stated monetary limit. (3) The Inuvialuit will have protection from the loss of value from inflation, or changes in government royalty or taxation laws or policies, and the administrative arrangement for collection will protect the Inuvialuit interest.

2. The cash flow generated will be sufficient to achieve the two goals of (1) funding Inuvialuit participation in business development through the monies the Inuvialuit Development Corporation receives, and (2) providing the monies necessary for the investments of the Inuvialuit Investment Corporation. The percentage is reasonable and fair to both the Inuvialuit and public, and involves no disbursement from the federal treasury. The nature of this approach tends to involve the Inuvialuit more intimately in the changing Northern society - it does not make them the quasi-welfare recipients of a cash transfer which serves no useful social function, and which tends only to exclude them from their traditionally used and occupied lands and what happens to those lands. Moreover, outright cash transfers just do not amount to much quantitatively, and have relatively little usefulness from the standpoint of social policy.

S. 902 (1) Subject to subsection (2), the Government of Canada will collect and remit annually to the Inuvialuit as provided in section 906 any royalties as referred to in section 901.

(2) Royalties provided for in sections 901 which are collected before the signing of the Final Agreement shall be held in trust for the Inuvialuit by the Government of Canada until the signing of the Final Agreement, and shall then be remitted forthwith.

S. 903 In respect to oil and gas, the reference value will be the free market value based on international and competitive prices

calculated at the locations in the Western Arctic Region where oil and gas will be available for transport or sale directly after production, processing, separation and other activities have been carried out in order to make the oil and gas of a quality acceptable for such sale and transport out of the Western Arctic Region.

S. 904 The Government of Canada will provide the Inuvialuit Development Corporation and the Inuvialuit Investment Corporation with a comprehensive calculation and accounting of the royalties received from each producer.

S. 905 In respect to oil and gas, coal or mineral deposits which occur partially within and partially without the boundary of the Western Arctic Region, the Government of Canada and the Inuvialuit Development Corporation and the Inuvialuit Investment Corporation, undertake to negotiate agreements from time to time as to which share of the oil and gas is being derived from within the Western Arctic Region, or as to which share of the coal or minerals is being derived from within Inuvialuit lands, and if the Parties are unable to come to any such agreement, or either Party refuses to negotiate, the matter shall be referred to arbitration as provided in section 206.

S. 906 (1) The Government of Canada will remit 75 percent of the total royalties collected according to section 901 to

the Inuvialuit Investment Corporation and 25 percent thereof to the Inuvialuit Development Corporation.

- (2) The Inuvialuit declare their intention to further their objective of enhancing Inuit identity, and of pursuing the philosophy expressed in the Nunavut Proposal presented to the Prime Minister and Federal Cabinet of Canada on February 27, 1976, and to this end state that they may in the future place some of their royalties received over and above a given amount in a trust fund for the benefit of all Inuit of the Northwest Territories, provided reciprocity is given in any land claims settlement of the Inuit of the balance of the Northwest Territories beyond the Western Arctic Region.

S. 907 Upon the signing of the Final Agreement, the Government of Canada agrees to advance to the Inuvialuit Development Corporation any loans requested, at a rate of interest equal to that applicable to Crown Corporations at the time the loan is advanced, to a maximum cumulative total of 50 percent of the reasonably foreseeable income for the Inuvialuit Development Corporation over the ten years following the granting of any such loan.

PART TEN

INUVIALUIT SOCIAL DEVELOPMENT PROGRAM

Preface to Part Ten

INUVIALUIT SOCIAL DEVELOPMENT PROGRAM

The Inuvialuit are suffering tremendous social costs as a result of the proliferation of industry and government in the Western Arctic Region. The crime rate, mostly alcohol related, is shocking and the health standards are appalling. The educational achievement is dismal, and the housing and essential services are substantially lower than the national average. This abysmal situation has received attention and financial aid from government, however, the money has too often only added to the problems. All government programs have lacked at least one essential ingredient, the involvement of Inuvialuit themselves in seeking the solution to the problems. A basic premise of this Part is that development should bear the cost of alleviating social problems as they are caused by development activities. The Social Development Program is an essential item to catch up for the past and prepare for the future, especially if there is to be a Mackenzie Valley gas pipeline. The essential components of the trust fund are to provide self-help programs by the Inuvialuit, yet leave ultimate control of the spending of public funds with a trustee appointed by the Government.

PART TEN

INUVIALUIT SOCIAL DEVELOPMENT PROGRAM

- S. 1001 (1) The Government of Canada acknowledges that the health, education, housing and physical standard of living for Inuvialuit are inadequate as compared to accepted national standards, that governmental welfare schemes are neither desirable nor an answer, and that it is a common goal of the Government and the Inuvialuit to preserve the Inuvialuit culture and lifestyle within a changing society, yet also afford the Inuvialuit true and meaningful equality of opportunity as Canadians.
- (2) It is recognized that to achieve the goals in subsection (1) special and immediate efforts must be directed to social, economic and cultural programs that will enable the Inuvialuit through adequate health, education, housing and employment to have true equality with other Canadians and participate in a meaningful way in Canadian society.
- (3) It is further recognized that the Social Development Program referred to in this Part is particularly necessary because of the inordinate impact of oil and gas development, and pipeline construction if that takes place, upon the Inuvialuit and their way of life, and the cost of both such impact and the

corrective programs should be borne by the development rather than the Inuvialuit.

- (4) The Parties further agree that the funding of special programs to meet these special needs will not in any way replace the responsibilities of either the Government of Canada or the Government of the Northwest Territories to provide necessary programs to accomplish the social goals expressed herein, and in respect to which the Inuvialuit as with other Canadians, can fully participate and benefit.
- (5) The Parties further agree that existing or new programs and funding by the Government of Canada, and the obligations generally of the Government, shall continue to apply to the Inuvialuit on the same basis as to the other native people of Canada, or other citizens of Canada generally, subject to the criteria established from time to time for the application of such programs.
- (6) The Parties agree that the following principles will be adhered to in determining policies and programs developed through the operation of this part of the settlement:
 - (a) The traditional practices and perspectives

of the Inuvialuit will be utilized as the basis for the solution of Inuvialuit problems; and

(b) Each Inuvialuit community will be directly involved in the decision-making process to the extent that it is affected by that process.

(7) To better realize the principles set forth in subsection (6), the Inuvialuit Development Corporation and the Committee for Original Peoples' Entitlement will advise the Governments of Canada, the Northwest Territories, the Yukon Territory, and the Western Arctic Regional Municipality in respect to Inuvialuit social, economic and cultural needs and appropriate governmental programs to meet such needs, and the problems of implementation of programs.

S. 1002 (1) To meet the needs and objectives expressed in section 1001, the Government of Canada agrees to set up a trust fund in accordance with section 1003 for an "Inuvialuit Social Development Program" upon the signing of this Agreement-in-Principle.

(2) This program would be involved in the following areas: housing, health, welfare, mental health, education, employment and training, and economic development.

(3) This program would serve the following functions:

- (a) do baseline research, including the compilation of existing information;
- (b) do analyses and evaluations of existing programs in terms of their effectiveness;
- (c) identify service and research needs;
- (d) make recommendations for alternative programs;
- (e) make recommendations for the implementation of the services;
- (f) perform special training or educational duties; and
- (g) provide advice to the Inuvialuit community corporations, the Inuvialuit Development Corporation, the Western Arctic Regional Municipality, The Government of the Northwest Territories and the Federal Government.

- S. 1003
- (1) The trust fund for the Inuvialuit Social Development Program will be for a minimum sum of \$20. million dollars unless the Cabinet approves a pipeline through the Western Arctic Region, in which event the trust fund will be \$40. million dollars.
 - (2) The Trustee for the trust fund will be appointed by the Government of Canada.
 - (3) The trust fund may be invested in interest-bearing securities.

- (4) Subject to subsection (5) the interest or the capital of the trust fund may be disbursed only upon the consent of both the Trustee of the fund and the Inuvialuit.
- (5) The Inuvialuit will upon request be able to use the interest from the trust fund to support independent research to carry out the functions set forth in subsection 1002(3).

Comment to Section 1003:

It is recognized that the social, health and education standards among the Inuvialuit are very much below the national average. This trust fund will make possible a self-help program, which is beneficial to both the Inuvialuit and the Government of Canada. The Inuvialuit do not want hand-outs to rectify the situation and we are confident that without any overall increase in government spending, an effective, satisfactory and efficient delivery system can be designed by the Inuvialuit that will solve the present problems. The Inuvialuit recognize that the first step is to establish good baseline data and do an intelligent analysis of that data. That can only be achieved by independent research and funding. It is further recognized that if the Government grants permission to build a pipeline that the Inuvialuit will suffer even greater adverse social, health and education impacts, and that work must begin immediately to catch up for the past and prepare for the future. Through setting up a trust fund, and thereby segregating the Inuvialuit Social Development Program from the general government bureaucracy, independence and flexibility is achieved. This will allow for more innovative approaches. At the same time, the monies are ultimately administered by a

Government appointed trustee, and the consent of that official is a necessary pre-condition to disbursements (other than in respect to interest income of the fund for research).



PART ELEVEN
LAND MANAGEMENT



Preface to Part Eleven

LAND MANAGEMENT

Land management in the Northwest Territories is in a deplorable state for meaningful land management is non-existent: Although government and industry always defend their activities by pointing out 'how far they have come', seldom do they admit how inadequate land management and planning is today. The problem includes a lack of adequate policies, planning, regulations and enforcement. Despite the promises made for years by government, the new land use regulation legislation still excludes the local people from effective involvement in the consultation and decision-making for land management in spite of the fact that land use activities have a profound effect on their lives and livelihood. The Department of Indian and Northern Affairs' jurisdiction over land has led to the untenable split between wildlife and land management. It has placed wildlife considerations in a subservient position to the considerations of industry. Moreover, within the structure of the Federal Government, the Northern Natural Resources and Environment Branch of the Department of Indian and Northern Affairs has a decision-making power unconstrained in any significant way by other departments. Finally, the Government itself is often the developer.

The overall effect is that the Arctic is a monolithic jurisdiction effectively controlled by a Federal bureaucracy whose stated and main goal is development [whatever the name of the Branch might suggest]. There is inadequate planning, ineffective control, and no 'checks and balances' to ensure that the interest of environmental protection is a meaningful part of decision-making.

The solution that is sought in this proposal is the Land Use Planning and Management Commission which is a public agency. Part Eleven is based on the proposition that a comprehensive, coherent and integrated public agency that has power and that involves local people and has access to competent technical advice, will achieve better land management for the Canadian Arctic and is in the best interests of all Canadians.

PART ELEVEN

LAND MANAGEMENT

- S. 1101 It is hereby agreed that, except for those lands selected as Inuvialuit lands pursuant to Part Six, and subject to the rights of the Inuvialuit as provided by this Agreement-in-Principle and the Final Agreement, the remaining lands of the Western Arctic Region, including the offshore seabed and subsoil are owned by Her Majesty in Right of Canada, and such lands and offshore areas are referred to as "public lands" for the purpose of this Agreement.
- S. 1102 (1) The Government of Canada will forthwith constitute and fund a Land Use Planning and Management Commission which will be given the general responsibility of advising, planning, managing, and enforcing land use within the Western Arctic Region.
- (2) There will be nine members of the board of directors of the Land Use Planning and Management Commission, chosen for a term of five years each, consisting of:
- (a) one person from each existing Inuvialuit community other than Inuvik appointed by the Hunters and Trappers' Committee for the community, and
 - (b) three persons who may or may not be from an Inuvialuit community, appointed by the Government of Canada.

S. 1103

- (1) The Land Use Planning and Management Commission shall prepare for the Government of Canada, a land use and management plan and report in respect to the Western Arctic Region within five years of the board of directors being appointed.
- (2) Without limiting the generality of the foregoing, the land use management and plan report shall include recommendations as to:
 - (a) changes in the existing Land Use Regulations (including methods for the effective involvement of the public in land use advisory committees, and methods of consultation with affected communities in the decision-making process as to the issuance of land use permits), the enforcement procedures thereof, and the extent of resources and manpower necessary to enforce effectively land use regulations;
 - (b) the development of an appropriate and effective system to assess the social, economic and environmental impacts of proposed land use or development activities in advance of the approval of such activities;
 - (c) the development of comprehensive land use evaluation, and management procedures, and land management zones;
 - (d) the criteria and conditions for the establishment and management of any hydro-electric projects;
 - (e) the formal designation of critical wildlife

resource areas where screening of mineral development or other land use application would be done especially carefully;

and

(f) how the biological productivity of public lands will be maintained.

(3) Subject to the approval of the Minister, the Land Use Planning and Management Commission shall be empowered to enact regulations to achieve and implement the objectives set forth in subsection (2).

S. 1104 The land use management plan and report, as well as interim recommendations, of the Land Use Planning and Management Commission will be published and made available generally to the public, and public hearings will be held in the Western Arctic Region and elsewhere in Canada upon the completion of the plan and report, to discuss and consider the plan and report upon the implementation thereof.

S. 1105 (1) The Land Use Planning and Management Commission may recommend that lands be set aside by the appropriate governmental agencies as International Biological Program areas, wildlife refuges, game sanctuaries, wilderness preserves, ecological preserves, or hunting, trapping or fishing reserves, in a number of blocs and for greater certainty, such blocs may include in whole or in part, rivers, the

off shore sea waters and seabed and subsoil thereunder.

(2) The Land Use Planning and Management Commission may itself set aside lands for any of the purposes referred to in subsection (1), and place any restrictions it deems appropriate upon land use or development activities in respect to any blocs of lands so set aside, pending the completion and submission of its land use management plan and report to the Government and the decision by the Government as to what recommendations of the plan and report are to be implemented.

(3) The Government agrees that all of the offshore sea waters and seabed and subsoil thereunder within the boundaries determined in Schedule "D" are hereby made an ecological preserve with no development activities or oil tanker traffic to take place therein.

S. 1106 (1) For greater certainty, it is expressly stipulated that community hunting areas and the hunting, trapping and fishing rights recognized or conferred by Part Five extend to all public lands, including those public lands set aside as provided in section 1105.

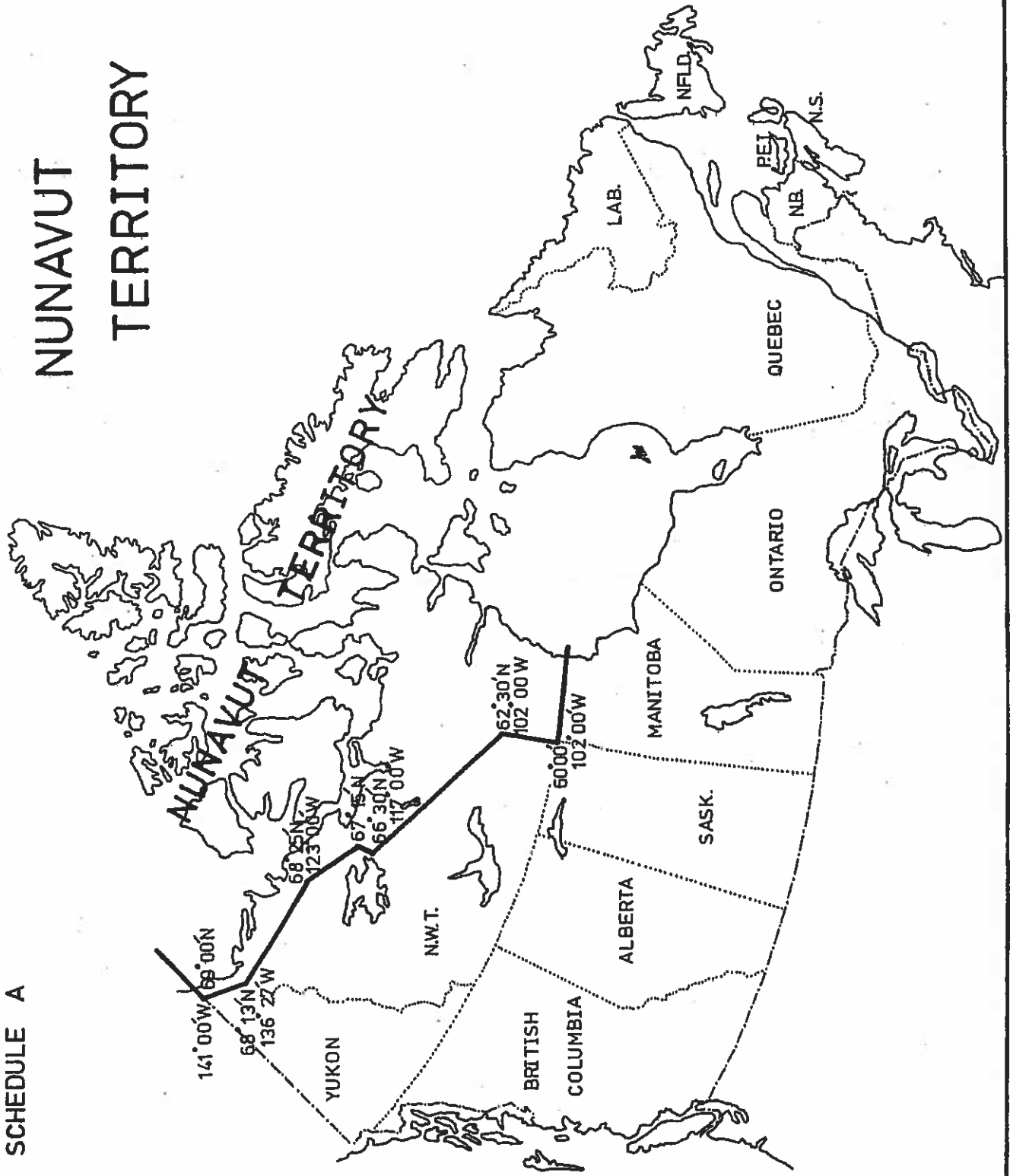
S. 1107 The Inuvialuit Development Corporation will have the right of first refusal for tourist, accommodation, and other similar concessions or opportunities within all public lands.

SCHEDULE "A"
NUNAVUT TERRITORY



SCHEDULE A

NUNAVUT TERRITORY

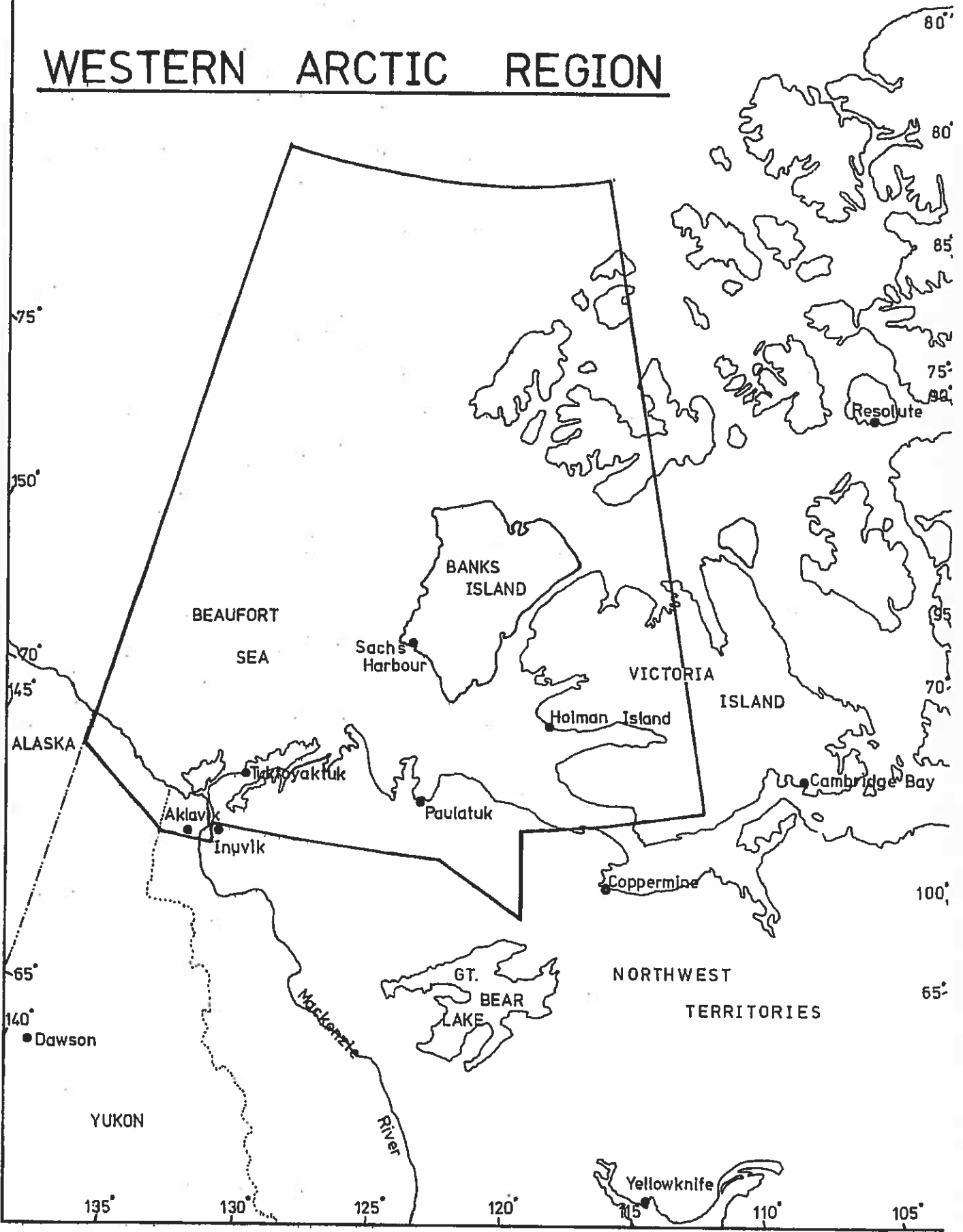


SCHEDULE "B"
WESTERN ARCTIC REGION

Schedule B

150° 145° 140° 135° 130° 125° 120° 115° 110° 105° 100° 95° 90° 85° 80°

WESTERN ARCTIC REGION



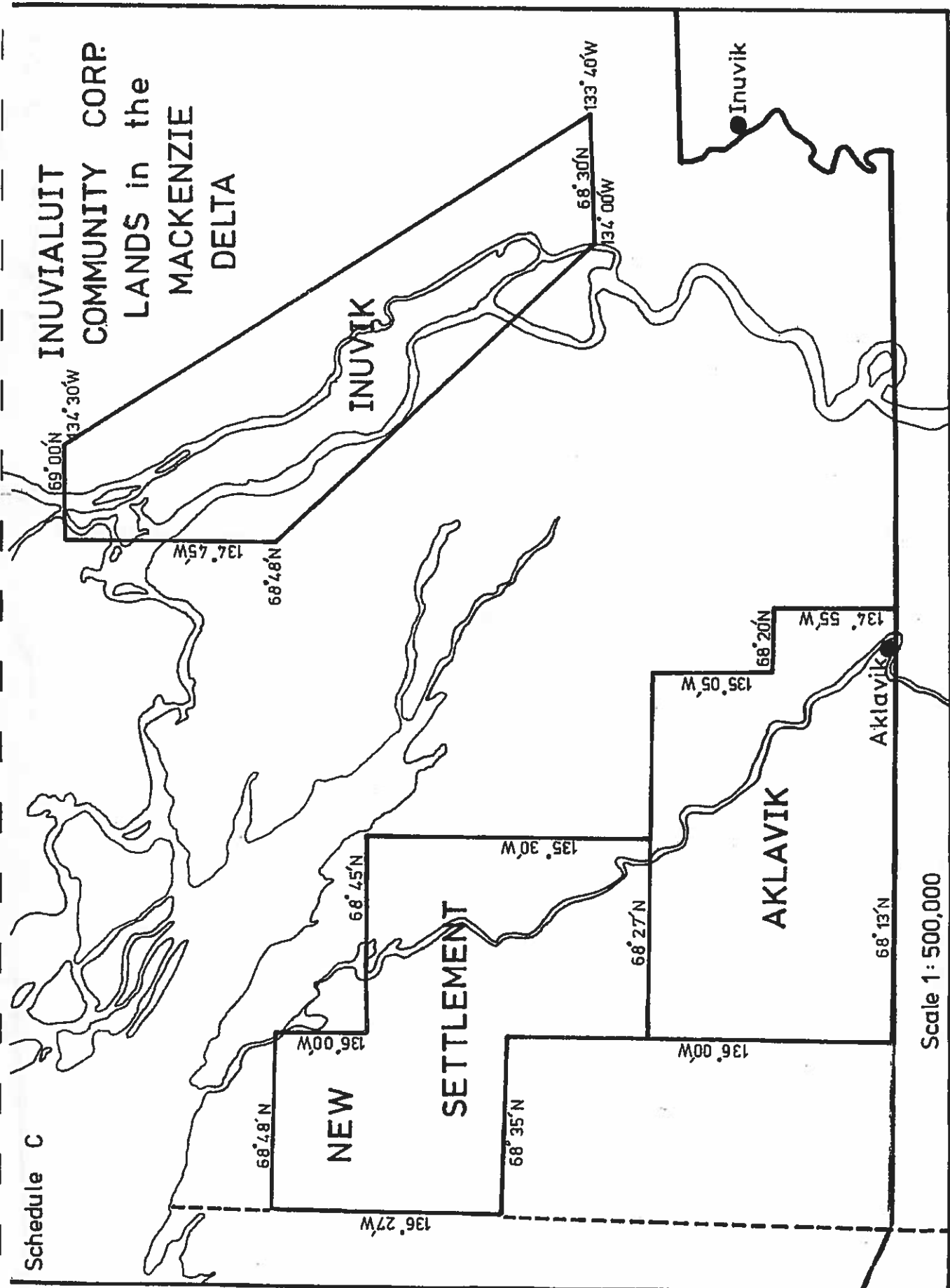
SCHEDULE "C"

NEW SETTLEMENT



Schedule C

INUVALUIT
COMMUNITY CORP.
LANDS in the
MACKENZIE
DELTA







Scale 1:500,000

127

SCHEDULE "D"
INUVIALUIT LANDS



SCHEDULE D

-  Inuvialuit Land
-  Offshore Ecological Preserve
-  Petroleum Areas
-  Gas fields

