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Mapping the Road Toward
a Government for Nunavik



Report of the Nunavik Commission
March 2001

Executive Summary of the Nunavik Commission's report

March 2001

Created in November 1999, following the Political Accord between the Nunavik Party, Québec and Canada, the Nunavik Commission was given the mandate to propose a form of government for Nunavik.

The Commission decided to proceed first with public hearings and meetings with public and regional organizations in all Nunavik communities. The Commission also consulted with aboriginal communities and nations neighbouring Nunavik. Finally, it held an extensive round of consultation with numerous government officials from either Québec, Canada, Nunavut and Greenland.

The main features of the Commission's recommendations are the following:

■ AN ENTIRELY NEW FORM OF AUTONOMOUS GOVERNMENT FOR NUNAVIK:

- Institutions non ethnic in nature, open to all residents.
- Jurisdiction over the entire territory of Nunavik, as per the Political Accord.
- Operate within the Canadian Constitution and respect the authority of the Québec National Assembly and the Parliament of Canada.
- Respect Charters of Rights and Freedoms.
- Respect rights of Inuit, Cree and Naskapi under JBNQA and NEQA.

■ A NUNAVIK ASSEMBLY:

- Is a democratic forum to debate public priorities and services, and to adopt laws.
- Is the basic building block around which revolves the other Nunavik institutions.
- Composed of at least 15 locally elected members, one for each Nunavik community and one for the Naskapi. Community with a population over 2000 elects a second representative.
- May adopt a Constitution for Nunavik, after having submitted it to the people in a referendum.

■ LAW-MAKING POWER FOR THE ASSEMBLY:

- Exclusive powers with respect to Inuit language and culture.
- Substantive and effective powers in fields like education, health, environment, public security, land and resources, economic development, justice, etc. These powers would be shared with Québec and Canada.

- No development of natural resources in Nunavik without the consent of the Nunavik Assembly.

■ A NUNAVIK GOVERNMENT:

- Executes laws and budget adopted by the Assembly.
- Composed at least of five members, including the leader, elected on a Nunavik-wide basis.
- Responsibilities of KRG, KSB, NRBHSS and Avataq would be merged into the Nunavik Government and personnel becomes part of the various departments of the Government.
- KRDC, KMHB, TNI, Tulattavik and Inulitsivik Health Corporations would fall under the jurisdiction of the Nunavik Government, while keeping their corporate identity.
- Local committees in the fields of education, health and social services, and justice would be invested with greater decision-making power.

■ CREATION OF A COUNCIL OF ELDERS:

- Guardian of the Inuit language and culture.
- Advisory to the Assembly.
- Composed of 15 members, representatives of all the Nunavik communities and the Inuit of Chisasibi.

■ CREATION OF A NUNAVIK COURT:

- Specific judicial district for Nunavik.
- With a full-time judge and a resident crown attorney.
- Detention facilities should be built in Nunavik.

- Setting up of justice committees in every community: judge would have to consult the committees before sentencing an offender.

■ **OFFICIAL LANGUAGES AND PROTECTION OF INUITTUT:**

- Inuttitut, French and English would be the official languages in Nunavik. Everyone would have the right to use any of the official languages and to receive information in any three languages from the Nunavik institutions.
- Inuttitut would be the predominant language of work in the operation of the Nunavik institutions.
- Nunavik Assembly would be empowered to enact laws to protect Inuttitut and Inuit culture.

■ **CREATION OF TWO COMMISSIONS, COMPOSED WITH REPRESENTATIVES OF NUNAVIK, QUÉBEC AND FEDERAL GOVERNMENTS:**

- **Nunavik Environmental Commission:**
would replace existing KEQC, KEAC and COFEX-North;
would have a twofold mandate:
 - decision making in administration of a unified process for assessing the impact of projects on the environment;
 - advisory in addressing recommendations to Nunavik, Québec and Canada for the protection of the environment.
- **Nunavik Wildlife Commission:**
local hunting, fishing and trapping associations would be represented on the Commission;
would have a twofold mandate:
 - decision making in wildlife management;

- advisory in reporting on the status of wildlife and in addressing recommendations to Nunavik, Québec and Canada for the protection of wildlife and the conservation of biodiversity.

■ **FINANCING OF THE NUNAVIK INSTITUTIONS:**

- Nunavik Government would receive its share of taxes (income, sales), rents and royalties raised in Nunavik.
- Nunavik Government would be empowered to intervene in the income tax and sales tax rates.
- Nunavik Government would be empowered to generate other revenue, such as fees, fines and dividends from public services enterprises.
- Two block funding agreements, one with the Québec Government and the other one with the Federal Government, should consolidate the various subsidies provided for Nunavik, with provisions for upgrading services, and for new programs and exceptional situations.
- Nunavik Assembly adopts the annual budget submitted by the Nunavik Government.
- Nunavik Assembly would designate an auditor who is responsible for auditing the public accounts and who reports to the Assembly.
- Nunavik Government would be responsible for its surpluses and its deficits.

■ **DECENTRALIZATION AND THE CAPITAL:**

- Nunavik Government would decentralize aspects of its functions and decision making process to local institutions at the community level.
- The choice of the Capital would be made by the population in a referendum.

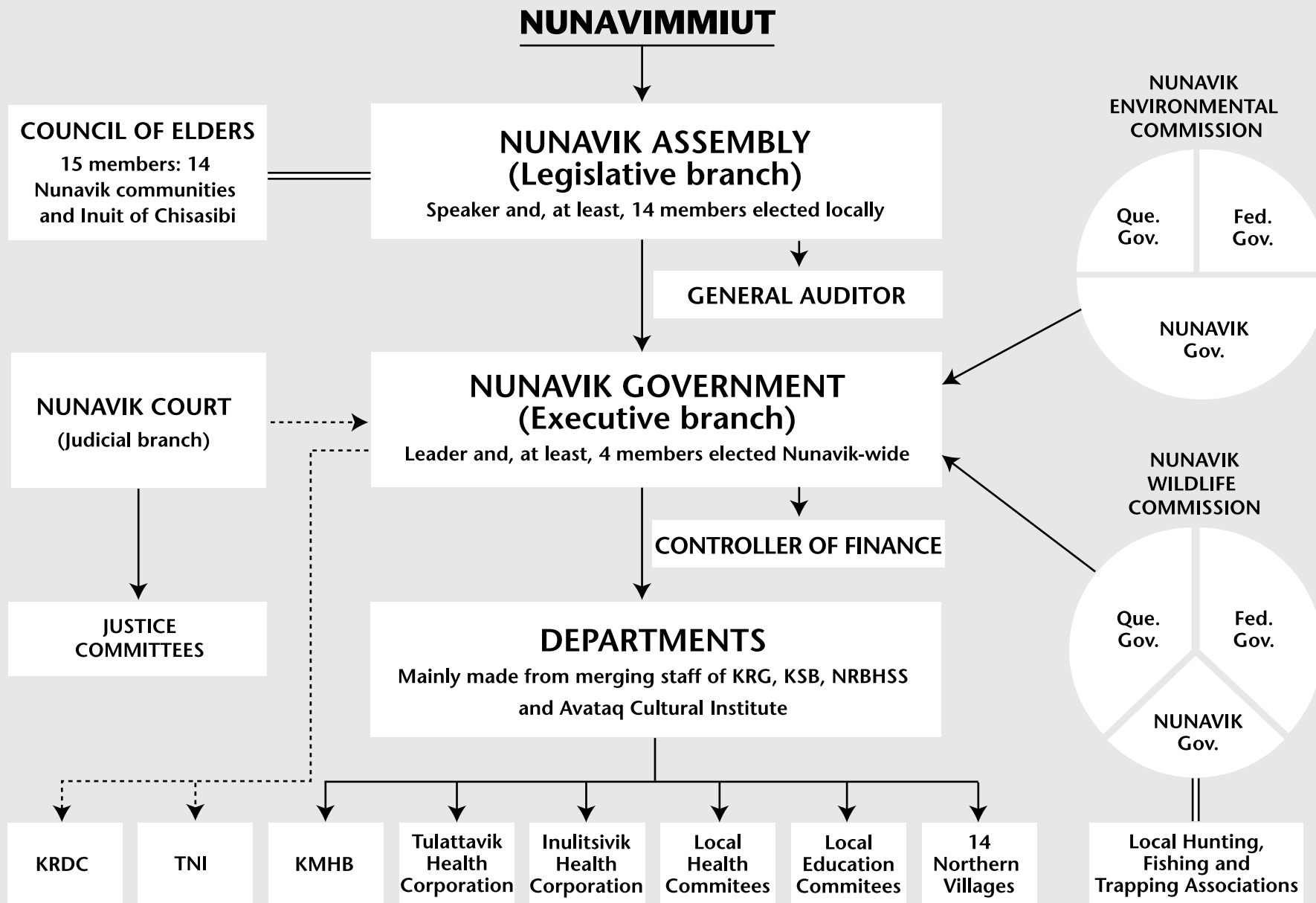
■ **RELATIONSHIP WITH OTHER GOVERNMENTS AND ABORIGINAL PEOPLES:**

- A Nunavik Conference of members of the governments of Nunavik, Québec and Canada would be created to discuss matters of mutual concern.
- Members of the Nunavik Assembly would be invited annually by the Québec National Assembly to maintain a continuing dialogue from Assembly to Assembly.
- Nunavik Government would be authorized to develop its own relations with other governments like Nunavut and Greenland.
- A Forum of Aboriginal Peoples of Northern Québec – Inuit, Cree, Naskapi and Innu – would be set up for discussions of mutual concerns in and outside of Nunavik.
- Nunavik should have a seat at the Québec National Assembly and at the Parliament of Canada.

■ **TIMETABLE AND PROCESS:**

- Negotiations for the creation of a Nunavik Government should start in Fall 2001.
- An agreement should be reached by 2003.
- The agreement should be submitted to the Nunavik population in a referendum.
- If the agreement is accepted:
 - appointment of an Interim Commissioner;
 - transition process would take place from 2003 to 2005;
 - first election of Nunavik Assembly and Government would be held in fall 2005;
 - creation of other institutions in 2006;
 - consolidation of the Nunavik Government from 2006 to 2011.

PROPOSED GOVERNMENT FOR NUNAVIK



KEY

→ : authority line - - - - - : administrative link but no direct authority = = = : advisory link

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List of Acronyms

COFEX-NORTH:	ENVIRONMENTAL AND SOCIAL IMPACT REVIEW COMMITTEE (CANADA)
JBNQA:	JAMES BAY AND NORTHERN QUÉBEC AGREEMENT
JBRDC:	JAMES BAY REGIONAL DEVELOPMENT COUNCIL
KEAC:	KATIVIK ENVIRONMENT ADVISORY COMMITTEE
KEQC:	KATIVIK ENVIRONMENT QUALITY COMMISSION
KMHB:	KATIVIK MUNICIPAL HOUSING BUREAU
KRDC:	KATUTJINIQ REGIONAL DEVELOPMENT COUNCIL
KRG:	KATIVIK REGIONAL GOVERNMENT
KRPF:	KATIVIK REGIONAL POLICE FORCE
KSB:	KATIVIK SCHOOL BOARD
NCC:	NUNAVIK CONSTITUTIONAL COMMITTEE
NEQA:	NORTHEASTERN QUÉBEC AGREEMENT
NQRDC:	NORTHERN QUÉBEC REGIONAL DEVELOPMENT COUNCIL
NRBHSS:	NUNAVIK REGIONAL BOARD OF HEALTH AND SOCIAL SERVICES
NV:	NORTHERN VILLAGES
RCAP:	ROYAL COMMISSION ON ABORIGINAL PEOPLES
TNI:	TAQRAMIUT NIPINGAT INC.

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Acknowledgements

Many enriching meetings have had an impact on the journey of the Nunavik Commission; without these fruitful exchanges, this report would have been no doubt very different. Firstly, we are grateful to all the people of Nunavik who attended the Commission's hearings and provided their input, which was always extremely informative and was frequently moving. We would also like to express our thanks to all Nunavik organizations for their productive participation through meetings held and through the briefs they tabled. We extend as well our special thanks to the mayors and the councillors who welcomed us so warmly, to the school administrators and secondary students for their interest and their input and, last but not least, to the Elders and the Youth who brought forward many enriching points of view.

We feel that it is especially important to thank all the people and organizations we met outside of Nunavik, in particular the Inuit of Chisasibi and the Inuit students of the Montreal area. The Commission also had meaningful exchanges with the Naskapi of Kawawachikamach, the Cree of Whapmagoostui, the Innu of Matimekush and the representatives of the Jamesians.

We thank all representatives from governments which nourished our work with their expertise: ministries and organizations from the governments of Québec, Canada, Nunavut and Greenland.

The Nunavik Commission had the opportunity to rely upon persons whose generosity and professionalism made the work both pleasant and efficient. We wish to express our gratitude to our two co-secretaries, Mr. Paul R. Bussi eres and Mr. Fernand Roy and also to Mrs. Dominique de Rouin, Mrs. Caroline Devost, Mrs. Levina Gordon, Mrs. Martha Kauki, Mr. Michael McGoldrick, Mr. Zebedee Nungak and Mr. Jean Talbot.

In closing, we are grateful to the three parties who signed the Political Accord for their continuous support, both financial and administrative. To that effect, we would like to thank particularly Mr. Robert Sauv e, in charge of the Aboriginal Affairs Secr etariat of the Qu ebec Government, Mr. Donald Allard, Assistant to the President, Makivik Corporation and Mr. Donat Savoie, Senior Negotiator for Nunavik, Indian and Northern Affairs Canada.



Eliyassi Sallualuk : If all existing groups of Nouveau-Québec decide to work together for the creation of such a government, could you tell them: OK, let's go?

René Lévesque : My answer is yes. (...) It is quite simple; if the Inuit unify their approaches in the way of an autonomy within Québec, in order to have a better management of their affairs, to pass laws in fields that concern them directly, to organize their life, we would be ready at once to discuss that with them and to accept this consideration. We could negotiate from this base whenever they want. (...) We would be ready anytime but it is up to them to decide.

Parliamentary Commission of the Québec National Assembly, November 23, 1983



I want to see concrete development on our Nunavik Government, so that we can make real decisions for ourselves. Not to keep on blaming our government in Ottawa, and the Québec Government. But to take on responsibility for our own lives and to control our own governance.

*Elashuk Pauyungie,
Public Hearings, Salluit, February 24, 2000*



Introduction

I. THE MANDATE AND ITS OVERRIDING PRINCIPLES

The mandate and principles that have guided the work of the Commission are set out in the Political Accord entered into by the Nunavik Party, the Government of Québec, and the Government of Canada on November 5, 1999. The Commission's mandate was nothing short of developing recommendations for an entirely new form of arctic government which will respond to the needs, desires, and aspirations of the Inuit and other residents of Nunavik.

Through the Political Accord, the Commission was given the formidable challenge of identifying the means for creating an autonomous form of public (non-ethnic) government which would accommodate Nunavik's arctic realities while at the same time being capable of functioning within federal and provincial jurisdictions. Such a challenge requires new and creative thinking. Indeed, the Political Accord highlights the fact that the design of a Nunavik Government should be "innovative in nature" and not unduly restricted by policy parameters, current administrative procedures or notions that are incompatible with the creation of a new type of government.

While the Nunavut Government operates within a territorial framework under federal jurisdiction, and Greenland Home Rule Government operates within its special relationship with the Danish Government, there exists no ready-made model for an autonomous form of public government within any of Canada's provincial jurisdictions. As a result, the Commission had to start from scratch when formulating its recommendations for the design of a Nunavik Government. Thus the successful creation of a Nunavik Government will mark a political first in Canada, and Québec will have the distinction of being the first province to make room for such a new form of government within its jurisdiction.

Given the magnitude of the challenge at hand, the Commission was given a wide-ranging mandate to make the recommendations necessary to ensure that a Nunavik Government would be equipped with the appropriate institutions, election processes, powers, jurisdiction, financing, resources, and administrative capacity to function as a true government in the arctic region. As a starting point for its work, the Political Accord indicated the need to consolidate the powers, functions, jurisdictions, and responsibilities of the Kativik Regional Government (KRG), the Kativik School Board (KSB), the Nunavik Regional Board of Health and Social Services (NRBHSS), and the Katutjiniq Regional Development Council



(KRDC) under a Nunavik Government. However, the Commission's mandate gave it the latitude to go far beyond this, and this report makes a large number of recommendations on a variety of issues, including an elected assembly with law-making powers, joint jurisdiction over natural resources, revenue sharing arrangements, the ability to maintain direct relations with other governments of the Arctic, as well as significant institutional capacity to preserve and promote Inuit culture and the Inuit language.

In interpreting its mandate, the Commission placed a great deal of importance on the overriding principles of the Political Accord, including:

- a Nunavik Government will be non-ethnic in nature;
- a Nunavik Government will respect the authority of both the Québec National Assembly and Parliament of Canada;
- the creation of a Nunavik Government will respect the rights of Inuit under the James Bay and Northern Québec Agreement;
- the design of a Nunavik Government will have to take into account the existing legal and economic realities, but it will also have to be innovative in nature and in keeping with the objective of creating a new type of government within a provincial jurisdiction;
- a Nunavik Government will be subject to the Canadian Charter of Rights and Freedoms and the Québec Charter of Human Rights and Freedoms;
- arrangements for the creation of a Nunavik Government will have to respect the arctic character of Nunavik and the close relationship between the Inuit of Nunavik and Nunavut.

The exact wording of the Commission's mandate can be found in the Political Accord referred to Appendix 1 of this report.

II. THE THREE PHASES OF THE COMMISSION'S WORK

The Commission was given a mandate which it endeavoured to respect in arriving at its report and recommendations for the creation and design of a form of government for Nunavik. While the Commission was careful to adhere to its mandate, it was ready to give a broad interpretation to its role and objectives where required, particularly when presented with larger than expected issues during the public hearings.

In order to carry out its mandate, the Commission divided its work into three distinct phases. The first phase was perhaps the most important aspect of the Commission's work and involved visiting all the Nunavik communities to hold public hearings, to speak with secondary school students, and to meet local elected officials. The Commission used the radio, television, and the print media to introduce itself, and it kept in touch with the communities through a toll-free phone number. It was during the first phase that the Commission held its first meetings with the regional organizations and institutions operating in Nunavik.

The second phase of the Commission's work consisted of a series of meetings with officials from numerous departments and ministries involved with Nunavik-related issues in the Governments of Québec and Canada, as well as Nunavut and Greenland. It was during this phase that the Commission received briefs from the major regional organizations and institutions in Nunavik, consulted experts, and conducted documentary research with its own resources. In the third phase, the Commission established various working groups with a view of studying specific issues; then, it finalized its recommendations and drafted the present Report.

Laying the Foundation

I. NUNAVIK TERRITORY AND PEOPLE

Nunavik is the only region in Québec which lies primarily above the tree line, where none of the municipalities are connected by road, and where Inuit constitute the overwhelming majority of the population. It is clear that Nunavik is part of the arctic world by virtue of its geography, climate, culture, language, landscape, modes of transportation, and high cost of living. It is in this context that the Commission uses the word "Arctic" in this report and in its recommendation for the creation of a Nunavik Government.

Nunavik is a vast region. It consists of 500,000 square kilometres, and it stretches from the 55th parallel to the northern tip of the province, and from Labrador in the east to Hudson Bay in the west. The Political Accord officially describes "Nunavik" as part of Québec located north of the 55th parallel of latitude, except for Category 1A lands and 1B lands of the Cree of Great Whale as defined in the James Bay and Northern Québec Agreement (JBNQA), and Category 1B-N lands of the Naskapi as defined in the Northeastern Québec Agreement (NEQA).

A Nunavik Government would have jurisdiction over all lands in the territory as described in the Political Accord. This would include jurisdiction over category I, II, and III Lands, as is currently the case with the existing public institutions exercising their authority north of the 55th parallel. Likewise, the Nunavik Government would have the same obligations as the existing institutions to fully respect the Inuit land rights north of the 55th parallel, including their property over Category I lands, and their hunting, fishing, and trapping rights over Category II and III lands.

Although Nunavik is a vast region, it is sparsely populated. It has a total population of approximately 11,000 permanent residents, of which close to 90 percent are Inuit.

Inuit also constitute the vast majority in each of the 14 Nunavik municipalities. Nunavik's small, but significant non-aboriginal population, does not live apart from the Inuit communities. Rather, they are integrated in Inuit municipalities, and they share in the life of these communities by being able to fully participate in the region's public institutions such as the local municipalities, the KRG, KSB and the NRBHSS.

In the larger context, all the residents of Nunavik are integrated in Québec and Canada's legal, administrative and tax regimes. For example, both the federal and provincial Charters of Rights and Freedoms apply to the public institutions of Nunavik, and Inuit and non-Inuit alike are full taxpayers on the same basis as other citizens of Québec and of Canada.

There exists the Cree First Nation of Whapmagoostui just north of the 55th parallel in what would be the south-west corner of Nunavik. Furthermore, the Naskapi First Nation lives in an area immediately south-east of Nunavik. The Naskapi also have a municipality north of the 55th parallel under the NEQA and the JBNQA, but it has no permanent residents. Neither the Cree community of Whapmagoostui nor the Naskapi of Kawawachikamach are included in the definition of Nunavik. On the other side of the coin, there exists an Inuit population in the Cree village of Chisasibi south of the 55th parallel. While this Inuit community is not part of Nunavik, the Commission recognizes that it has cultural and social links with Nunavik, and could have representation in certain public bodies of a Nunavik Government.

II. EXISTING REGIONAL INSTITUTIONS OF PUBLIC ADMINISTRATION

There currently exist numerous public institutions of regional scope in Nunavik, including the KRG, the KSB, the NRBHSS, the KRDC, and various other administrative organizations.

Most of these were put in place as a result of what Inuit representatives were able to negotiate in the JBNQA twenty-five years ago. At the time, Inuit had the choice of negotiating Inuit-specific (ethnic) institutions of self-government which would have come under federal jurisdiction. However, they rejected this option in favour of the creation of a series of public institutions (non-ethnic) which would have jurisdiction throughout their region. And since these public institutions did not relate exclusively to an Aboriginal People, it became legally possible under the Canadian Constitution to implement these bodies through Québec legislation. Consequently, although Inuit were largely responsible for negotiating these institutions created under the JBNQA, these public bodies are open to the participation of all residents of the territory, Inuit and non-Inuit alike.

These public institutions have, to a degree, succeeded in increasing the region's autonomy over the past two decades, and they have provided the Inuit with the opportunity to exercise greater control over their affairs. By their very nature, these bodies usually operate in isolation from one another, and are administrative in function, and often have to act as an extension of numerous provincial and federal departments in the south.

The result is a system of public administration which is unwieldy and extremely complex. For example, the KRG derives 95 percent of its resources through 35 different agreements with a dozen provincial and federal departments. The negotiating and reporting requirements of these agreements place a heavy administrative burden on this institution, thus resulting in considerable time and energy being diverted away from the KRG's primary functions and responsibilities in Nunavik.

In addition to inefficiencies brought about by the need to manage so many agreements, the current system of public administration in Nunavik is plagued by overlapping responsibilities among the different institutions in the

region. Examples include the real and potential room for duplication and overlapping activities between the Avataq Cultural Institute and the KSB on some cultural matters, and between the KRG and the KSB in certain aspects of adult training and education. On the other hand, there are also gaps in the current system, and this is true for some matters pertaining to communications, youth, and culture which are not addressed in the JBNQA.

Probably the most glaring shortcoming with the existing system is that it lacks an overall body through which the people of Nunavik can come together collectively to determine their priorities and aspirations. The existing institutions such as the KRG, KSB, and the NRBHSS have elected representatives, but ultimately, they are each responsible for a relatively narrow field of activity, and they generally operate independently of each other. Even a body like the KRG, which has taken on a public policy role far beyond what was originally envisaged, is still limited by its function and mandate as a supra-municipality.

The Commission noted arguments put forward in Makivik's brief that the situation in Nunavik is akin to a Government of Québec that would consist of nothing more than a series of departments and ministries operating independently of each other without a National Assembly or an executive head of Government. Further proof of the region's need for a comprehensive and autonomous structure can be found in the fact that the institutions created under the JBNQA have consistently evolved to assume a greater competence and role in responding to the needs of residents of Nunavik. The lack of the necessary overarching institutions north of the 55th parallel is one of the more compelling reasons for the creation of a Nunavik Government.



III. THE JOURNEY TOWARDS A NUNAVIK GOVERNMENT

In developing its recommendations for the design of a Nunavik Government, the Commission could not help but take notice of continuous efforts by the Inuit over three decades to establish an autonomous government for Nunavik. Indeed, the Commission was impressed by the fact that many of the individuals who spoke at the public hearings also appeared before the Neville-Robitaille Commission thirty years ago with essentially the same message.

In the early 1970's the Inuit pursued the creation of an autonomous government through their cooperative movement, the Federation of Cooperatives, and the newly established Northern Québec Inuit Association. When the opportunity to conclude a land claims agreement presented itself in the mid 1970's, the Inuit used the occasion to put in place many of the public institutions referred to earlier. However, they never lost sight of their desire for a truly autonomous government which could exercise law-making powers and consolidate the responsibilities and jurisdiction of many of the institutions of public administration operating in the region. Moreover, the need for a comprehensive government structure for Nunavik was also driven by the demands of the Inuit who strongly opposed the limitations of the JBNQA.

In 1983 the Inuit pleaded their case before a special Commission of the Québec National Assembly, and the then Premier René Lévesque indicated that Québec was willing to open discussions on creating new self-government arrangements for the territory north of the 55th parallel. Shortly afterwards, the Inuit organizations and public institutions in Nunavik came together under the Ujjituijiit Committee to develop the necessary proposals. This work was taken over by the Nunavik Constitutional Committee, which, after much debate and consultation, produced a draft constitution for a possible Nunavik Government. The significance of this work is

that the draft constitution was approved in 1991 in a Nunavik-wide referendum involving all residents of Nunavik, and it confirmed the people's desire for a public government with substantial law-making and administrative powers.

Intensive rounds of negotiations on the creation of the Nunavik Government took place in the 1990's, but it became obvious that further preparation was required in order to reach the necessary agreements. In the fall of 1997 in Kangiqsualujjuaq, in response to a proposal made by Inuit leaders, Premier Lucien Bouchard agreed with the idea of establishing a commission to make recommendations for the design and implementation of a Nunavik Government. Then the federal government was invited to participate within this process, and late in 1999, the Nunavik Party and the Governments of Québec and Canada signed the Political Accord which provided for the mandate and establishment of the Nunavik Commission.

The Commission is keenly aware that its work follows three decades of efforts to realize an autonomous government for Nunavik. The Commission sincerely hopes that its report and recommendations will make a significant and timely contribution to the creation of a Nunavik Government.

IV. THE PUBLIC HEARINGS: PRIORITIES AND CONCERNS

The Commission attached a great deal of importance to what people had to say at its public hearings. In the course of its travels to the 14 communities of Nunavik, certain themes began to emerge and take shape as priorities for a future Nunavik Government.

First and foremost was the concern for the future of Inuit culture and the Inuttit language. People consistently indicated that a Nunavik Government must be one in which Inuit would be able to see themselves, their language, their values, and their traditions. It would not be enough for a

Nunavik Government to simply respect and accommodate Inuit culture. Rather, the government would have to be an effective tool for the preservation and promotion of Inuit culture.

Furthermore, numerous individuals voiced concerns over the exceptional high cost of living and heavy tax burden in Nunavik. On this last point, people wanted to make sure that the creation of a Nunavik Government would not lead to a third level of taxation in the region. The Commission also heard numerous presentations on the need for a Nunavik Government to have greater control over renewable and non-renewable resources and the means of generating wealth from within the region. Other areas of concern included the need for autonomy and law-making powers, adequate powers to protect the environment and the safety of country food, and culturally appropriate education, health, social, and justice systems which will involve controls and input at the community level.

The Commission has taken all these messages to heart, and it has done its best to address the concerns and priorities voiced at the public hearings in its recommendations for the creation of a Nunavik Government.

In addition to the above, the Commission also heard messages and concerns on important issues that went beyond its mandate. The Commission explained that it could not act on these matters in its recommendations, but it promised to report the issues in order to bring them to the attention of those in a position to take action on these matters.

The status of the offshore area is one such issue that went beyond the Commission's mandate. The traditional Inuit lifestyle is closely tied to the offshore, and Inuit continue to rely heavily on the area for subsistence hunting and fishing. As a result, many people at the public hearings emphasized the logic of having the offshore come under the jurisdiction of a Nunavik Government. How-

ever, the Commission's mandate indicates that it can only make recommendations regarding the creation of a Nunavik Government for the territory described in the Political Accord. This territory includes the region north of the 55th parallel within the province of Québec, but not the offshore area, which comes under federal and Nunavut jurisdiction. It should also be noted that the jurisdiction of KRG, KSB, and other institutions created under the JBNQA do not extend to the offshore. On another hand, the Commission agrees the question concerning the status of the offshore is important, and it believes that this matter should be addressed by the interested parties. Furthermore, the Commission notes that it may be possible that some concerns expressed at the public hearings could be resolved by the agreement being concluded by the Makivik Corporation with the Governments of Canada and Nunavut.

The subject of dog killings was another issue raised in many communities in reference to the sled dogs that were killed several decades ago by the police forces. This yet unresolved issue is considered by many as an extremely sad event that caused a great deal of suffering in the Nunavik communities. This issue like the offshore issue is presently being dealt with by Makivik Corporation.

The issue of Québec sovereignty was also raised on a number of occasions during the public hearings. Some people wanted to know what would happen to a Nunavik Government if Québec were to secede from Canada. Others asked how the creation of a Nunavik Government could affect Inuit decisions concerning their future in the event that Québec decides to leave the Canadian Federation.

The Commission recognizes that questions concerning Québec sovereignty are very important, and that this issue will continue to be hotly debated for some time to come. In the meantime, Makivik is actively representing Inuit interests on this issue with the federal and provincial

governments. Whatever the case, addressing this issue in its recommendations is well beyond the scope of the Commission's mandate. However, it should be noted that the Commission's mandate is supported by the Nunavik Party and both the Governments of Québec and Canada, and that the recommendations for the creation of a Nunavik Government are within the context of Canada's current constitutional framework.

V. PRINCIPLES BEHIND THE COMMISSION'S WORK AND RECOMMENDATIONS

Given the terms of its mandate, what it heard at the public hearings and in meetings with representatives of various organizations and governments, and the preference of Nunavik as demonstrated by the developments of the past three decades, the Commission decided to build its report and recommendations on the following three principles:

A public government for Nunavik

Even if it may seem obvious, the Commission is using the words "public government" to mean one which is non-ethnic in nature. Under such a system, people are entitled to receive services from, and to fully participate in a public government regardless of their ethnic origin. In Nunavik, this would include all permanent residents of the territory, Inuit and non-Inuit alike.

Although Inuit have chosen to exercise their right of self-determination through forms of public government, it is worth noting that some Aboriginal Peoples have opted to exercise their right to self-determination through the inherent right of self-government. The inherent right of self-government is an Aboriginal Right, and it manifests itself as an Aboriginal, or ethnic form of Government. As stated in the RCAP Report, governments generally take the exercise of the inherent right to be limited to lands that are primarily owned or directly controlled by an Aboriginal People, such as category 1 lands under the JBNQA.

It should also be noted that although the Inuit may have opted for a public government, their inherent right of self-government continues to exist. Subject to the situation described above, the Inuit of Nunavik could decide, for a variety of reasons, to exercise their inherent right of self-government at some point in the future.

While a Nunavik Government may be non-ethnic in nature, it will inevitably reflect Inuit traditions, values and aspirations for the simple fact that Inuit constitute close to 90% of the population in the territory. A Nunavik Assembly will also have the ability to make laws for the preservation and enhancement of the Inuit culture and the Inuttit language, thus providing a legitimate forum for such initiatives and assuring that they respect the rights of all the residents living in the territory.

The creation of a public government for Nunavik would be consistent with section 5.1 (a) of the Political Accord and the non-ethnic status of many of the institutions currently operating in Nunavik, including the KRG, KSB, and NRBHSS. Likewise, it would be in keeping with the non-ethnic nature of the Government of Nunavut and the Greenland Home Rule Government. By definition, a public government for Nunavik would be subject to the Canadian Charter of Rights and Freedoms and the Québec Charter of Human Rights and Freedoms.

The need for innovation and a high degree of autonomy

Throughout the Commission's tour of the communities, the fundamental aspiration of the Inuit of Nunavik to manage their own affairs was expressed clearly and constantly. The Nunavik Commission is of the opinion that it calls for the creation of a government with a high degree of autonomy. At the very least, this calls for an elected assembly with law-making powers and an executive branch with a significant measure of autonomy in financial, administrative and intergovernmental functions. Conversely, this means discarding arrangements

where the components of a Nunavik Government would be viewed as an extension of various departments of the Governments of Québec and Canada, and avoiding the temptation to mimic regional structures in southern Québec whose jurisdiction is not broad enough to address Nunavik's needs.

The need for autonomy goes hand in hand with the need to be innovative. Municipal, territorial (Nunavut, Yukon and Northwest Territories), and provincial models of government cannot be used as a template for the creation of a Nunavik Government. Rather, there is an intense need for an innovative approach which will produce a highly autonomous form of government which does not yet exist within Québec or any other provincial jurisdiction in Canada.

Fortunately, the Commission believes that there exists sufficient flexibility within the Canadian and Québec legal systems to provide a Nunavik Government with the necessary autonomy, law-making powers and shared jurisdiction. By the same token, it must be recognized that in most cases such autonomy will generally not mean exclusive law-making powers for a Nunavik Government. Depending on the power being exercised, the law-making ability of a Nunavik Government would have to, in varying degrees, be shared with the Governments of Québec and Canada.

The Commission also believes that political autonomy means very little without financial autonomy. A Nunavik Government must have the ability to use its financial resources according to its own decisions and priorities. This means moving away from conditional funding existing between provincial and federal departments and the corresponding institutions in Nunavik. Wherever possible, a Nunavik Government should receive transfer payments in the form of block funding. Financial autonomy also means providing a Nunavik Government with its own source of revenue by sharing the wealth.

Again, this innovative approach is needed to allow a Nunavik Government access to most of the taxes currently being collected in the territory, and to rents and royalties relating to resources development.

Responsibility and accountability in the design of a Nunavik Government

The greater will be the level of political and financial autonomy of a Nunavik Government, the greater its level of responsibility. For that reason, it is essential that a Nunavik Government be accountable to the people of Nunavik. Equally important is the need for a system which will encourage people to take an active stance in holding a Nunavik Government accountable for its decisions and actions. With this in mind, the design of the assembly, executive, and administration must provide proper accountability, especially for matters relating to budgetary items and expenditures.

It should be noted that while a Nunavik Government would assume, within its jurisdiction, many responsibilities in the region, this would not mean the residents of the territory would be cut off from the Governments of Québec or Canada. People would still vote in federal and provincial elections, and Québec and Ottawa would continue to respond to their needs on the same basis as other citizens. Likewise, federal and provincial laws of general application would continue to apply as the case warrants. Nonetheless, it can be assumed that the existence of a highly autonomous Nunavik Government would have an impact on the nature and extent of the provincial and federal government's responsibilities to Nunavik.

The three principles described above form the basis for the Commission's work and recommendations. In addition to serving as the underpinnings of this report, the Commission believes these principles will also lay the foundation for an effective, efficient and autonomous Government for Nunavik.





Part One

The Institutions

The means by which we will attain autonomy, I prefer not to refer to as a government. It will represent everybody, whoever they may be, and will have to act as a sort of father or a roof of unity to the various organizations which exist today, mostly as a result of the James Bay Agreement. It will act as leader, giving direction. If these entities continue to exist in fragmented isolation to each other, the solutions to the problems which have been highlighted will not be consolidated. It will instead contribute to scattering them even more.

Minnie Grey,
Public Hearings, Kuujjuaq., February 22, 2000



My grandfather and my father both had possessions of the knowledge of Inuit, traditions and expertise in wildlife matters handed down throughout the generations by word of mouth and not by written literature (...). They were kept alive by the workings of their brain, and included knowledge of the stars and constellations. They knew the ways of the winds and the science of the snow. By the reading (...) of the clouds and their formation and behaviour, they could accurately foretell the coming of adverse weather as well as good weather (...). So, if we are setting out to build a proposed government, we have to allow our Elders (...) to take the lead in this.

Mary Luuku,
Public Hearings Ivujivik, March 13, 2000



For those who are going to set up the Government, there should be considerations made for the decentralized distribution of the agencies and institutions among the communities. That way, more jobs can be available to more people.

Sarah Bennett,
Public Hearings, Kuujjuaraapik, August 28, 2000



Our hearts have been battered and bruised over the years by laws that governments have made which do not fit our lives at all. This is especially apparent in the courts and the justice system. Our people are hauled onto court and lectured to and admonished in a system utterly foreign to ourselves! They are dragged into court over trifles which could be settled by alternative ways.

Paulusie Padlayat,
Public Hearings, Salluit, February 24, 2000



The Institutions

The overall structure of the Nunavik Government should be composed of three branches: legislative, executive and judiciary. The legislative power would be held by an elective assembly, enabled to pass laws; the executive power would be held by another elective structure, called the Government, and responsible for the execution of the laws and the public administration. The Commission also proposes that some basic elements of a judiciary system be instituted for Nunavik. The three following chapters describe the proposed Assembly, the Government and those elements of a judiciary system which would better serve the distinctive needs of Nunavimmiut.



Chapter 1

An Assembly for Nunavik

The creation of an Assembly of Nunavik is the indispensable starting point of autonomy. It is the basic building block around which the other branches of the Nunavik Government shall revolve. Autonomy for Nunavik cannot be accomplished without an Assembly.

The Assembly of Nunavik shall be a permanent forum for democratic debate, for the setting of economic, political and socio-cultural priorities and for the expression of the aspirations of the people of Nunavik. It shall hold the Nunavik Government accountable for its actions, and shall establish the legal and financial framework within which the Government shall operate. Finally, the Assembly shall become an instrument for achieving further self-determination, beyond the management of immediate issues, through more fundamental debates on the status of Nunavik as the need arises.

The Assembly shall function within the Constitution of Canada, which includes the division of powers between federal and provincial institutions and, since 1982, the Charter of Rights and Freedoms, as well as section 35 of the Constitution Act which guarantees and protects aboriginal and treaty rights. The Assembly shall also function within the jurisdiction of Québec, including the Québec Charter of Human Rights and Freedoms. The Assembly shall be open to the membership of persons of any ethnic origin, subject to reasonable requirements relating to residency, and to other matters, that may be established by law.

Only an Assembly elected directly by the people will have the authority and legitimacy to decide to use resources where they are most needed. While most of the organizations and institutions of Nunavik, whether or not they have been established by the JBNQA, have

been able to function separately for a number of years, the lack of a central forum has reduced their effectiveness, and has made the selection of overall priorities within public affairs a nearly impossible task, while generating overlap and undue expenses. Some of these organizations also suffer from chronic under-funding, which prevents them from delivering services that are strongly felt needs. Consequently, the boards of KRG, KSB, NRBHSS and Avataq Cultural Institute shall be replaced by the Assembly. On the other hand, TNI, KMHB, KRDC and Inulitsivik and Tulattavik Hospital Corporations shall come under the jurisdiction of the Assembly while retaining their corporate identity.

Recommendation 1 at the end of this chapter, provides a detailed model of the structure, function and powers of the Assembly. This recommendation is more precise and elaborate than most of the other recommendations made by the Commission, because it lies at the heart of the Commission's mandate and because it has been made clear to the Commission in the public hearings that a complete proposal on this subject was expected by the population of Nunavik.

I. STRUCTURE

The Assembly would be elected directly by the residents of Nunavik and be composed of at least 15 members, one from each of the 14 villages of Nunavik and one from the Naskapi.

Following the public hearings and meetings with the regional organizations and municipal councils, the Nunavik Commission indeed believes that the rule of at least one representative per village reflects a general desire of the population as well as a widely accepted practice over the last 25 years. This rule is justified by the particular circumstances of Nunavik, such as its lack of roads and the huge size of its territory which makes of each village a distinct social unit with its own marked identity.

Consequently, the Commission does not feel that the concept of electoral districts grouping more than one village is applicable.

With respect to the Naskapi, the Commission was directed by the Political Accord to ensure that the rights that were recognized to them by the NEQA in 1978 would not be reduced. The Naskapi presently have one seat in the KRG; they should therefore have one as well in the Assembly of Nunavik if they so desire. This would however, clearly fall short of the many concerns that were strongly expressed to the Commission by the Naskapi. These concerns should be properly addressed through the Forum of Aboriginal Peoples of Northern Québec proposed in chapter 10.

In addition to the 15 members of the Assembly, each village, including the Naskapi, shall elect a second member if its population exceeds 2000 residents. This measure appears necessary to ensure a minimal proportional representation among villages whose population varies from less than 200 to over 2000. The Commission is of the opinion that this proportional representation could be improved in the future by the Assembly, if it so desires.

Furthermore, in addition to those members who are to be elected locally, the Assembly may or may not be composed of the persons elected at large to form the Government. In the next chapter, the Commission proposes that the persons called to run the Government be elected at large, by the population of Nunavik, as compared to the members of the Assembly who shall be elected on a local basis. For that reason, the members of the Nunavik Commission could not agree among themselves as to whether or not the elected members of the Government should also be members of the Assembly.

In the course of its discussion, the Nunavik Commission contemplated two different models without arriving at any consensus on the matter. Some Commissioners were of the opinion that the Government members should be members

of the Assembly, a position that other Commissioners objected to. This issue will be dealt with in the next chapter.

Whatever decision is to be made on this issue, the Assembly should elect a Speaker at its first sitting as soon as elections are held; it should also adopt its own rules of procedure.

The Commission proposes that the Assembly be elected to a three or a four-year term; this period would appear to be long enough to carry out some significant measures and short enough to remain closely tied to the will of the voters. There would be no limit on the number of terms for an individual member of the Assembly. A member of the Assembly elected locally may also serve as a mayor of one of the villages of Nunavik.

Since the Inuit of Nunavik have so far chosen a public form of government, as in Nunavut and Greenland, elections to the Assembly are open to non-Inuit. An employee of the Government would have to obtain a leave of absence before becoming a candidate; the leave of absence would last during all his term of office if he is elected and could not be denied by the Government. This would ensure the absence of a conflict of interest for the candidate during his campaign and during his term. It would also give him the right to return to his former occupation, or the equivalent, after the end of the campaign or the end of his term.

II. FUNCTIONS

The Assembly would have two major responsibilities. Firstly, it would serve as a permanent and central democratic forum. It could discuss any issue, and adopt motions or resolutions on any subject, including matters that are not within its legislative power. The Assembly could thus, if it chooses, state from time to time its position on issues of fundamental concern in the name of Nunavik.

Secondly, the Assembly would serve as a law-making body in a number of significant areas. The laws of the Assembly would apply to the Government, the people and the territory of Nunavik. While the Assembly would not own any land, it would have jurisdiction over the entire territory of Nunavik, including all three categories of land established by the JBNQA. On the other hand, the Assembly would have to respect the current provisions of the JBNQA concerning the ownership and use of land, including the provisions relating to the rights and powers of landholding corporations.

In addition, the Assembly may exercise other powers that may be transferred to it by the National Assembly of Québec, the Parliament of Canada, as well as other powers which may derive from specific arrangements with Makivik Corporation or the Government of Nunavut. It may also request reports from various bodies under its jurisdiction, such as KRDC, KRPF, KMHB or Taqramiut Nipingat Inc. (TNI). It may create committees or commissions made up of its own members or of other individuals, to investigate or study any matter it chooses.

III. LEGISLATIVE AND OTHER POWERS

Recommendation 2 proposes that the Assembly of Nunavik have jurisdiction over a wide range of legislative matters. These reflect the concerns expressed in the public hearings and, as a matter of fact, relate to the main areas of public concern such as Inuit language and culture, health and social services, education, economic development, natural resource development, protection of the environment, wildlife management, municipal affairs, housing, public security, administration of justice, communications and transport.

The jurisdiction over Inuit language and culture would be exclusive. In all other areas mentioned in this report, the jurisdiction would be shared with the National Assembly of Québec or the Parliament of Canada, but must be

substantial and effective. This degree of autonomy must be at least as high, in the beginning, as present-day reality in each area. Neither the National Assembly of Québec nor the Parliament of Canada would have the power to reduce the powers of the Assembly of Nunavik without its consent.

In addition to the list of legislative powers mentioned in Recommendation 2, there are specific provisions contained in other recommendations. In particular, no development of natural resources in Nunavik would take place without the consent of the Assembly (see Recommendation 15). This would provide important and much-needed leverage in negotiations with promoters and governments over the sharing of the wealth flowing from the land, the water and the minerals of Nunavik. The Assembly and Government would then be in a position to ensure that public revenue, employment and contracts for the businesses of Nunavik are derived in a spirit of fairness from the development of natural resources.

Moreover, the Assembly of Nunavik would approve the budget of the Nunavik Government, its own budget, and it would also approve the salaries and benefits of the members of the Government and of its own members.



The Assembly would adopt the official titles of the leader and the other members of the Government, as well as the official designations of the departments of the Government.

IV. COUNCIL OF ELDERS

The Nunavik Commission proposes the creation of a Council of Elders, an advisory body responsible for the protection and development of Inuttitut and Inuit culture. This is justified for a number of reasons. The clear emphasis that was placed in the public hearings on the protection and development of Inuit language and culture is one of those reasons. The enhancement of the identity and cohesiveness of Inuit society, by showing respect for elders in a formalized setting, is another. It is also believed that the traditional knowledge and moral authority of elders will guide the other institutions of Nunavik to a higher purpose and long-range concerns.

The underlying role of the Council of Elders would be to act as the guardian of Inuit language and culture, and of Inuit values. For this reason they would have a direct relationship with the Nunavik Assembly and shall advise it on all matters pertaining to language and culture. Moreover, the Council of Elders would be able to initiate its own examination of issues it deems important for the future of Inuttitut and the Inuit culture, and it would be able to submit its recommendations directly to the Nunavik Assembly for consideration.

The Council of Elders would have the ability to establish the necessary committees to help carry out its work, and when invited to do so, its members could also participate in committees of the Nunavik Assembly.

The leader and other members of the Government would be able to speak to the Council of Elders if invited by the Council. As is the case for the Assembly, the sittings of the Council of Elders would be public, and it could adopt its own rules of procedure.

The Commission envisages a Council of Elders that would likely be composed of representatives from all the communities in Nunavik, although the final decision will rest with the Nunavik Assembly. Whatever the case, the Commission believes that it is important that the Council of Elders include a representative from the Inuit community in Chisasibi. The Commission visited this community, located just south of the 55th parallel, and therefore outside the territory of Nunavik. Although their relations with their Cree neighbours appear to be close, the Inuit of Chisasibi expressed to the Commission a clear desire to strengthen their ties with Nunavik, social and cultural ties in particular. Representation within the Council of Elders would help to achieve that goal.

With respect to the eligibility criteria for being a member of the Council of Elders, the Nunavik Commission could not reach an agreement. Some Commissioners are of the opinion that the Council of Elders should be limited to Inuit, while others are of the opinion that the Council should be open to all residents of Nunavik, provided that they speak Inuttitut. Therefore, the Commission came to the conclusion that the selection process and criteria for membership in the Council of Elders as well as its structure, should be determined by the Nunavik Assembly.

V. OFFICIAL LANGUAGES, CONSTITUTION AND OTHER MATTERS RELATED TO THE FUNCTIONING OF THE ASSEMBLY

Besides defining the structure of the Assembly and the Council of Elders, Recommendation 1 also addresses issues of great significance: the official languages, the Constitution, referendums, by-elections, code of ethics, recall, Speaker and sessions of the Assembly.

In order to respond to the many concerns that were expressed during the public hearings with respect to the future of the Inuit language, and in keeping with the experience of the newly formed government of Nunavut,

the Commission came to the conclusion that Inuttitut had to be elevated to the status of official language of Nunavik, alongside French and English whose status of official languages is already entrenched in the law.

This is to say that Inuttitut, French and English shall be the official languages of Nunavik. Therefore, every member of the Assembly and the Government has the right to use any of those three languages, just like everyone in Nunavik. In the same spirit, information, documentation and correspondence may be obtained from the Assembly and the Government in any of the official languages.

In the courts though, where everyone will have the right to be heard in any of the official languages, only the French and English versions of a legal rule, a decision or a measure adopted by the Assembly and the Government of Nunavik can be applied by the courts. This is a consequence of the legal rules of procedure and interpretation that are presently applied in the court system across the country. However, the Commission recommends that no law can be applied by the courts unless there exists an official Inuttitut version of that document.

Finally, Recommendation 1 empowers the Nunavik Assembly to adopt a Constitution of Nunavik, which may be inspired from the NCC Constitution that was approved in April 1991 by the population of Nunavik. Given the paramount importance of such a document, the Commission is of the opinion that it should be submitted to the citizens of Nunavik for approval.

Recommendation no. 1

The Nunavik Assembly

AN ASSEMBLY FOR NUNAVIK

- 1.1 There shall be an Assembly of Nunavik elected directly by the residents of Nunavik. The right to vote would be acquired after one year of residency, and the right to be elected after a two years residency.
- 1.2 There shall be at least 15 elected members of the Assembly of Nunavik, one from each of the 14 communities of Nunavik and one from the Naskapi. In addition, each community with more than 2000 residents, including the Naskapi community, shall elect a second member of the Assembly. This proportional representation could be improved in the future by the Assembly.
- 1.3 The Assembly shall be elected for a term of three or four years.
- 1.4 The elections to the Assembly and to the Government may be held on the same day.
- 1.5 The boards of KRG, KSB, NRBHSS and Avataq Cultural Institute shall be replaced by the Assembly. TNI, KMHB, KRDC and Inulitsivik and Tulattavik Hospital Corporations shall come under the jurisdiction of the Assembly while retaining their corporate identity.

THE COUNCIL OF ELDERS

- 1.6 There shall be a Council of Elders, an advisory body to the Nunavik Assembly which would include 15 members, one from each of the 14 communities of Nunavik and one from Chisasibi.

- 1.7 The selection process and criteria for membership in the Council as well as its structure shall be determined by the Nunavik Assembly.
- 1.8 The Council of Elders is the guardian of Inuit language and culture, and of Inuit values.

REFERENDUMS

- 1.9 A member of the Assembly and of the Government, three municipal councils or a number of electors from each community, to be determined by the Assembly, may propose that a referendum be held in Nunavik on any issue.
- 1.10 All referendum proposals must be considered urgently by the Assembly, and decided upon promptly.
- 1.11 A referendum must be held if a referendum proposal receives the support of a majority of the members of the Assembly who are present.
- 1.12 There shall be no abstentions on a referendum proposal.

BY-ELECTIONS

- 1.13 If a member of the Assembly or the Government resigns, dies, becomes incapacitated or is convicted of a criminal offence, a by-election shall be held to replace him or her until new general elections are held.-

CODE OF ETHICS.

- 1.14 The Assembly must adopt a Code of Ethics applicable to the members of the Assembly and the Government.

RECALL

- 1.15 The leader and the other members of the Assembly or the Government, or any of them

individually, may be recalled before the end of their term for clearly dishonourable personal conduct, for a fundamental breach of trust or for behaviour incompatible with the dignity of their office and the standards expected by the people of Nunavik. A recall of such persons shall take place and a by-election shall be held to replace them if a vote of two-thirds of the members of the Assembly is in favour of a recall.

THE SPEAKER OF THE ASSEMBLY

- 1.16 Immediately after general elections are held, the members of the Assembly shall sit together to elect, by a secret ballot, a Speaker of the Assembly from among themselves.
- 1.17 The Speaker shall be responsible for the protection of the rights and privileges of the Assembly, as well as the rights and privileges of each member of the Assembly.
- 1.18 The Speaker shall be responsible for the agenda of the Assembly, unless he is overruled by the Assembly.
- 1.19 The Speaker may not take part in debates in the Assembly. He must withdraw if his personal conduct, or his conduct as a Speaker, is discussed by the Assembly; he is replaced by an interim speaker, or by the Deputy Speaker if there is one, for the duration of that discussion.
- 1.20 The Speaker may not vote, unless to break a tie. He may decline to vote when there is a tie in order to preserve the neutrality of the chair; in such a case, the measure proposed is defeated but must be voted on again within 30 days.
- 1.21 The Speaker may be removed by a vote of at least two-thirds of the members of the Assembly. The Speaker may not preside over such a vote,

nor take part in it. There shall be no referendum on the removal or the conduct of the Speaker.

SESSIONS OF THE ASSEMBLY

- 1.22 The sittings of the Assembly shall be public.
- 1.23 The Assembly shall adopt its own rules of procedure.
- 1.24 The Assembly shall sit at least four times a year. The Speaker shall call each session of the Assembly.
- 1.25 The salaries and benefits of the members of the Assembly, and of the Government and the Speaker shall be set by the Assembly.
- 1.26 The Assembly may create committees or commissions made up of its own members, or of other individuals, to investigate or study any matter it chooses.
- 1.27 The Assembly must keep an official record of its deliberations.

OFFICIAL TITLES

- 1.28 The Assembly shall adopt the official titles of the leader and the other members of the Government, as well as the official designations of the departments of the Government.

OFFICIAL LANGUAGES

- 1.29 The official languages of Nunavik are Inuttitut, French and English.
- 1.30 Every member of the Assembly and the Government has the right to use any of the official languages.
- 1.31 Everyone has the right to use any of the official languages in Nunavik.

- 1.32 Everyone has the right to receive information, documentation and correspondence from the Assembly and the Nunavik Government in any of the official languages.
- 1.33 Everyone has the right to use any of the official languages before the Court of Nunavik.
- 1.34 Every legal rule, decision or measure adopted in a written form by the Assembly or the Nunavik Government must be adopted in all three official languages before it is deemed to have effect. Transcriptions of the debates of the Assembly shall be made in the original language, and in Inuttitut if French or English is being used.
- 1.35 Only the French and English versions of a legal rule, a decision or a measure adopted by the Assembly and the Nunavik Government can be applied by the courts, but no version can be applied by the courts unless there exists an official Inuttitut version of that document.
- 1.36 The Assembly of Nunavik must respect the Constitution and the laws of Canada, including the Charter of Rights and Freedoms.
- 1.37 The Assembly of Nunavik must respect the laws of Québec, including the Québec Charter of Human Rights and Freedoms.

CONSTITUTION

- 1.38 The Assembly may adopt a Constitution of Nunavik. The Constitution must be submitted to the people in a referendum.

Recommendation no. 2

Powers of the Nunavik Assembly

EXCLUSIVE POWERS

- 2.1 The Assembly shall have exclusive jurisdiction over Inuit language and culture, including traditional knowledge and values.

SHARED POWERS

- 2.2 The Assembly shall have substantive and effective jurisdiction in the following areas:
 - 2.2.1 Education, including post-secondary and adult education;
 - 2.2.2 Health including midwifery;
 - 2.2.3 Social services, including youth protection, adoption and family services;
 - 2.2.4 Communications;
 - 2.2.5 Taxation and the use of public funds;
 - 2.2.6 Housing;
 - 2.2.7 Economic development, including development of natural resources;
 - 2.2.8 Municipal affairs, including the creation of municipalities, as well as municipal taxation and funding;
 - 2.2.9 Research and statistics;
 - 2.2.10 Protection of the environment;
 - 2.2.11 Conservation of biodiversity;
 - 2.2.12 Wildlife management;
 - 2.2.13 Land use and planning;
 - 2.2.14 Tourism;

- 2.2.15 Transport;
- 2.2.16 Relations with other governments, or with governmental or non-governmental organizations of the Arctic, outside Québec or Canada;
- 2.2.17 Public security, including police and fire prevention services, as well as civil emergency measures;
- 2.2.18 Games of chance;
- 2.2.19 Alcohol and other intoxicants;
- 2.2.20 Parks, recreation and sports;
- 2.2.21 The administration of justice, including the creation of local justice committees;
- 2.2.22 Public works, including public tenders;
- 2.2.23 Labour relations, including conditions of employment in the construction industry;
- 2.2.24 Additional powers which may be transferred by the Parliament of Canada and the Québec National Assembly and additional powers which may be derived from specific arrangements with the Nunavut Assembly, and Makivik Corporation.

Chapter 2

A Government for Nunavik

As the executive arm of the Assembly, the Government of Nunavik will be responsible for the execution of the laws, decisions and measures adopted by the Assembly. This is to say that it shall act in the same areas of jurisdiction as the Assembly. It is also the Government that sees to the current affairs of the whole apparatus and oversees the public administration. Therefore, the Government is a structure which is meant to operate on a day-to-day basis, unlike the Assembly which is to sit only several times a year.

I. STRUCTURE

The Commission is of the opinion that the members of the executive be directly elected by the population rather than chosen among the members of the Assembly as is the case of provincial and federal parliaments.

There would be at least five elected members of the Nunavik Government, including the leader. After the first election, this number could increase but never to exceed one third of the total number of the Assembly members.

Unlike the members of the Assembly who are to be elected locally, the members of the Government are elected at large, by the whole population of Nunavik. However, as is the case for the Assembly, the Government would be elected for a term of three or four years and they would be elected simultaneously. There would be no limit to the number of terms of individual members of the Government. Mayors and municipal councillors would not be eligible to serve as members of the Government, although they could be elected to the Assembly.

As for the composition of the Government as well as the inclusion or not of its members within the Assembly, the Commissioners could not come to a consensus. In spite of

long discussions and as a result of a deep disagreement, they could only agree to submit two models and to refer this whole issue to the three parties to the Political Accord.

Model 1

In the first model, the candidates run for the position of leader or for the other executive responsibilities of the Government and, once elected, they keep their responsibilities for the duration of their term. They are also full members of the Assembly, which means that, in addition to their executive functions, they also sit with the other members of the Assembly and, as such, fully participate in its legislative function.

Some Commissioners favour this model because it is already practised in Nunavik. In their view, the formula has evolved with time and experience and now works well. They also believe that this model is a Nunavik innovation and the people in Nunavik have become familiar with it and feel well represented through it.

Other Commissioners have stated that such a model would create an unequal status between the members of the Assembly who are to be elected locally, and those elected regionally. They are concerned that the members elected regionally to run the Government would indeed be in a position to control the Assembly, thus affecting the very democratic life in Nunavik.

Model 2

In this second model, only the leader is elected as such, and he is the one to assign the specific executive responsibilities to the other persons elected with him to run the Government. The leader may change those responsibilities from time to time during the term of the Government. The Government members, once elected, are not members of the Assembly but they have the right to appear before it and speak on any issue being considered by the Assembly. In turn, the Assembly, or one of its committees, would

have the power to compel a member of the Government to appear before it.

Some Commissioners favour this model because the formula, besides being innovative, makes a clear distinction between legislative and executive powers, thus preserving a necessary balance between the two. By allowing the leader of the Government to assign himself the responsibilities to his colleagues, there would be more flexibility in the executive.

On the other hand, some Commissioners feel that the executive in this model would be weakened by being left out of the law-making process. They also feel that the people of Nunavik have expressed a preference for an election where candidates run for pre-assigned executive responsibilities; they sense in this case that they have a better control over the choice of Government members.

II. FUNCTIONS

The Nunavik Government shall hold and exercise the executive powers that are found in most governments within their areas of jurisdiction. It shall manage the day-to-day affairs, direct the civil service, establish relations with other governments and organizations, and access tax and non tax revenue. It shall set policies, programs, regulations, and administrative procedures. It shall act in the same areas of jurisdiction as the Assembly.

In addition, it shall have the power to enter into contracts, to buy, own and sell property, to negotiate collective labour agreements, to borrow, to conclude intergovernmental agreements and to become a member of intergovernmental or aboriginal organizations within Québec, within Canada, or internationally.

The Nunavik Government, like the Government of Canada or the Government of Québec, must not act without being legally authorized to do so. It must make its decisions within the framework of the Constitution of Canada, the

applicable laws of Canada and Québec, and the laws adopted by the Nunavik Assembly.

III. PUBLIC ADMINISTRATION

In order to properly fulfill all of its functions, the Nunavik Government will have to establish a public administration composed of civil servants. In chapter 1 of this Report, it has been said that the Nunavik Assembly shall replace the Board members of KRG, KSB, NRBHSS and of Avataq Cultural Institute. In the same manner, it is understood that the non elected officials and employees of those organizations will be transferred to the Nunavik Government. All of these employees coming from different horizons and experiences, will then be merged into a single body of public administration, under the supervision of the government.

With respect to institutions which are to maintain their corporate identity, namely TNI, KMHB, KRDC and Inulitsivik and Tulattavik Hospital Corporations, they shall keep their respective personnel, while falling under the jurisdiction of the Nunavik Government.

Recommendation no. 3

The Nunavik Government

- 3.1 There shall be a Nunavik Government elected directly by the whole population of Nunavik.
- 3.2 There shall be at least 5 elected members of the Nunavik Government, including the leader. After the first election, the Assembly may subsequently increase this number but never to exceed one third of the total number of the Assembly members.
- 3.3 The Government members shall be elected for a term of three or four years, as for the Assembly members.
- 3.4 The Nunavik Government must respect the Constitution of Canada, including the Charter of Rights and Freedoms, as well as applicable federal legislation.
- 3.5 The Nunavik Government must respect the laws of Québec, including the Québec Charter of Human Rights and Freedoms.
- 3.6 The decisions of Nunavik Government must be authorized by the Nunavik Assembly.
- 3.7 All officials and employees of KRG, KSB, NRBHSS and Avataq Cultural Institute shall be transferred to the Nunavik Government.

IV. DECENTRALIZATION

The subject of government decentralization and the devolution of responsibilities and facilities to local communities were not dealt with directly during the public hearings. However, it would not be overstepping popular will of the people of Nunavik to consider the many calls for an efficient, effective, autonomous form of government as an appeal to give communities a major role in public decision-making.

The creation of a Nunavik Government constitutes in itself a move toward decentralization in which the Québec and federal governments will transfer powers to public institutions whose members will be chosen by the Nunavimmiut. However, the benefits of this transfer of powers will be limited without taking advantage of opportunity to accentuate the role of local communities.

There exists a form of decentralization that calls for the distribution of government offices among a number of communities rather than concentrating them in the capital. This option has many pitfalls. For example, it is very difficult to persuade civil servants to move to the region's smaller localities. The problem is compounded by a lack of housing. Moreover, the need for authorities to be in close contact with their employees makes such decentralization complicated, even inefficient. As for the economic spin-offs, the benefits are often limited to an increase in the number of civil servants in the communities without there necessarily being more job opportunities for the local population. Lastly, and most importantly, the option does not give local communities more of a say in decisions concerning them.

The Nunavik Commission therefore does not advocate promoting this form of decentralization. This does not mean, however, that the Commission deems it necessary to locate all government activities in the same locality. In the Commission's opinion, it would be preferable to leave all current decentralization measures in place. Thus, the

cultural services presently offered in Inukjuak would continue to be available there; similarly, Taqramiut Nipingat Inc. (TNI) would continue to operate out of Salluit. In addition, education and health services that are already available in various locations in Nunavik, or that will soon be made available, would be maintained.

The Commission advocates another form of decentralization, which consists in giving more responsibilities to local authorities so as to place the seat of power as close as possible to the people. In most cases, the best solution would be to vest power in the municipal councils, as municipalities are political entities that are both close and well known to the people. The elected members of these councils are located where many services are actually needed and, with adequate resources, are in the best position to respond in an appropriate and immediate manner.

For instance, property management could be handed over to municipalities and they would be responsible for overseeing public buildings, social housing, and housing for public-sector employees. Municipalities are already active in this area, and they could be entrusted with all of the human and financial resources necessary to take charge of this key sector in the North.

In addition, Nunavik municipalities could be invested with wider functions in social services by becoming a response centre mandated to meet local needs rather than using specific organizations.

Clearly, the transfer of powers should be done gradually to give municipalities the opportunity to adjust to their newly assumed responsibilities. A training program could be implemented locally prior to the transfer, thereby making it possible to hire people from the community.

Of course, there could be other local organizations to meet special needs that require organizational structures

and operations that are incompatible with those of municipal administrations. The Hospital Corporations would be a good example of such a possibility, although the final decision on the roles of such bodies should be left up to a Nunavik Assembly. Specific recommendations are made in other parts of the report with respect to such organizations.



Recommendation no. 4

Decentralization

- 4.1 Each time responsibilities are transferred to the Nunavik Government, the appropriateness of decentralizing the responsibilities in whole or in part to local authorities should be analyzed, with municipal administrations being the preferred entities for assuming some of these new responsibilities. This analysis should take into account, in addition to the administrative principles of simplicity and efficiency, the principles relating to local autonomy and to the social and economic development of communities.
- 4.2 The transfer of powers to the local level should be preceded by the implementation of training programs for local employees; the human, technical and financial resources necessary to exercising the powers must be provided at the time of the transfer.

V. THE CAPITAL

A debate concerning the designation of a capital for Nunavik did not really emerge during the public hearings and few representations were made on the subject.

Nonetheless, whether the government activity is decentralized on a small or large scale, the question of designating a capital must be addressed. It is almost inevitable that services and facilities will be concentrated to some extent in order to promote exchanges within the Nunavik Government and enhance certain economies of scale. Moreover, the location of the seat of a Nunavik Assembly and Government is undeniably important both symbolically and economically.

The Commission does not intend to designate the place where a Nunavik Government activities will be concentrated. The choice should be made by the people of Nunavik. Thus, a referendum seems the most judicious way in which to determine the location of the capital.

Recommendation no. 5

The Capital

- 5.1 The choice of a capital for Nunavik should be made by way of a referendum. Communities interested in being designated the capital would submit their application, and the list of applicants would be put to popular vote.



Chapter 3

A Justice System for Nunavik

The design of a new government for Nunavik would not be complete without specific proposals on the justice system. Indeed, as stated earlier, a government structure is composed of three branches: the legislative which is to pass the laws, the executive which is to execute them, and the judiciary whose function is to interpret and apply the laws.

The Commission recommends some basic elements of a justice system which would then be integrated in the justice systems of Québec and Canada.

I. A COURT OF NUNAVIK

Both the Inuit Justice Task Force Report and the Coutu Report recommended the creation of a new judicial district in Nunavik, distinct from the judicial district of Abitibi. This judicial district would have at least one full-time judge of the Cour du Québec, with jurisdiction over criminal, youth protection and civil cases. The district would also have a resident Crown attorney. The Nunavik Government should be involved in the selection of these judges and Crown attorneys. Its representatives should have the opportunity to meet the candidates for these positions before they are officially selected by the Government of Québec. They should be named by Québec only after prior approval by the Nunavik Government. Also, judges and Crown attorneys should receive special training, upon their appointment and at regular intervals thereafter, to better prepare for the specific conditions of their work in Nunavik.

A judicial district in Nunavik would allow the Court to visit the communities more regularly, to reduce travel costs for the judges, the attorneys, judicial staff, inmates and police, and to create a greater sense of belonging between Nunavik society and the judicial system. A small-claims court might be established as well. Eventually, a court with

the combined jurisdiction of a superior court, which treats the major criminal offenses, and the provincial court, could be put in place as is now the case in Nunavut, if there are no constitutional impediments.

II. JUDICIAL REVIEW

In addition to the foregoing, it must be made clear that anyone who has legal standing, particularly any person or corporation residing or active in Nunavik, may challenge any law adopted by the Nunavik Assembly or measure taken by the Nunavik Government in the appropriate court, which could be the Court of Nunavik or the Superior Court of Québec. This is a fundamental right that flows from the constitutional principle of the rule of law, which has been affirmed many times by the Supreme Court of Canada. This right may not be denied by any governmental authority. For example, a law adopted by the Assembly of Nunavik that would be incompatible with the Canadian Charter of Rights and Freedoms or another part of the Constitution of Canada, would be struck down by the courts.

This is to say that, while the Nunavik Assembly has a direct link of authority over the Government, it has no authority whatsoever over what the courts may decide.

The same may be said about the Nunavik Government which will have no say in the courts decisions and, like any government in Canada, it will have to abide by their decisions. However, it is understood that the Nunavik Government may have to provide the courts with some administrative support such as housing and salary for the court's staff.

Finally, the Commission also advocates the creation of local Justice Committees, as elements of a community-based justice system, and other elements which are aimed at instilling the justice system of Nunavik with Inuit ways and values. But all of these elements, because of their close relationship with other social issues, will be addressed within chapter 7 of this Report.

Recommendation no. 6

A justice system for Nunavik

- 6.1 A new judicial district should be created in Nunavik. This judicial district should have at least one full-time judge of the Cour du Québec, with jurisdiction over criminal, youth protection and civil cases. The district should also have a resident Crown attorney. Both the judges and the Crown attorneys should be named by the Government of Québec only after prior approval by the Nunavik Government. These judges and Crown attorneys should receive special training, given jointly by both governments. The Court should be called the Court of Nunavik.



Part Two Public Finances

Will we now start paying three sets of taxes when Inuit get their own government? Will our institutions, such as the co-ops and others, be slapped with even more taxes to pay? Or, are we about to be endowed with true power, with the taxes we have had to pay to the federal and Québec governments eliminated, giving us autonomy?

Paulusie Kasudluak,
Public Hearings, Iqviq, March 13, 2000

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We are seeking legislative power, and the Political Accord is the basis for this building of our future. On the matter of the government tax dollars used every year in our communities, stated earlier to be over \$200 million a year; can these dollars become the business of the new government? Will rules governing these dollars continue to be as present, or, can the new government have discretion over how these dollars are used and allocated? For example, could they have authority to determine shifting the use of these monies in the areas of health and education?

Maggie Emudluk,
Public Hearings, Kangiqsualujjuaq, January 21, 2000

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I am also certain that there exists the resources in the Arctic to realize this. Johnny Adams has just explained how finances are searched out, identified and distributed according to needs. I believe there exists the means to do this in our future. I encourage you not to fear what has to be done; I would not say it cannot be done. We continue to be dependent on the governments, and probably will be for the foreseeable future. But there is a great wealth of unexploited resources just beginning to be looked at which will help make this work.

Putulik Kullulak,
Public Hearings, Quaqtaq, January 24, 2000

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Chapter 4

Revenue and Expenditures of the Nunavik Government

Public finances are a pillar of the operation of any government. The following chapters focus upon the main issues related to finances: the financing relationship between the Nunavik Government and the Governments of Canada and Québec, the importance of autonomous and sound revenue, the main powers and rules related to expenditures, the budgeting and accountability processes.

I. RELATIONS OF A NEW TYPE

The Royal Commission on Aboriginal Peoples stated that “a renewed relationship [between the Aboriginal Peoples and the government] requires fundamentally new fiscal arrangements”. The institutions proposed in the previous chapters are so far removed from the current situation prevailing in the existing public administration in Nunavik that administrative rearrangements alone would not be enough to achieve the political autonomy sought with the creation of a Nunavik Government. These institutions will be able to exercise their powers adequately if they have the necessary means at their disposal. Legislation and regulations constitute privileged means for giving tangible form to the collective choices of Nunavik; the capacity to allocate public funds in accordance with these choices is also a means of decisive importance. Allowing the Nunavik Government to exercise this capacity presupposes that relations of a new type must be devised between the governments of Canada and of Québec and the Nunavik Government.

To that effect, the Nunavik Commission brings forward its orientations in the public finance field, orientations that ensue from the guiding principles adopted for all its recommendations.

As a public government, the Nunavik Government must be able to raise the necessary resources through access to taxation and by means other than taxation, in particular through the continuation of transfer payments. Compared to the present-day situation, it is necessary to consolidate in a single budget the resources intended for public services in Nunavik and to entrust the power of making appropriate decisions to the institutions of the Nunavik Government.

These fundamental changes must however preserve benefits brought to Nunavik from 25 years of the JBNQA implementation. Provision must be made for redoubling efforts not only to preserve existing services, but also to ensure that such services are brought up to an appropriate level. Moreover, access to new government initiatives will have to be preserved in order to continue the efforts that have been ongoing for decades to improve the conditions of the citizens of Nunavik.

Moreover, during the public hearings, the residents reiterated before the Nunavik Commission that they already pay their fair share and perhaps more than their fair share of taxes. In this respect, mention may be made of the sales tax, which is added to the prices of consumer goods that are already higher due to elevated transportation costs. The Nunavik Commission has often pointed out that its recommendations would definitely not suggest increasing the tax burden supported by the taxpayers of Nunavik. On the contrary, the Commission is of the opinion that the major changes resulting from the creation of a Nunavik Government must simplify the current situation. However, for this, it is imperative that all of the decisions pertaining to the creation of a Nunavik Government be examined according to their impact on the tax regime, and that they be harmonized with one another.

The exercise of political power does not only mean the allocation of available resources; it also means the legitimate use of resources and the rendering of accounts

to tax payers. The revenue and expenditures of a public government must be made in accordance with clearly set out rules and processes. Additionally, the Nunavik Government will have to operate in an effective and efficient manner, and apply an economy of scale in the use of its resources. Ultimately, it will have to be responsible for the consequences of its actions.

II. ACCESS TO TAX REVENUE

Access to tax revenue is a basic element of government autonomy. Indeed, the ability to raise various types of taxes gives a government the means to implement decisions for the public good, which taxpayers are then called upon to approve or reject when electing their political representatives. Consequently, a Nunavik Government must have the power to have access to tax revenue and must assume the ensuing duty, namely that of rendering appropriate accounts. In general, a public government can: levy taxes on personal and corporate income as well as sales taxes; impose fees for the provision of services and the issue of permits and licences; impose fines; collect revenue from games of chance or government corporations. The Nunavik Commission believes that access to these sources of revenue is essential, provided that the terms and conditions of such access are defined. The Commission is also of the opinion that realistic tax revenue projections are required; indeed, under the current conditions, the financial needs of a Nunavik Government largely exceed the region's fiscal capacities.

Taxes

A Nunavik Government must be able to intervene in the taxation field. However, in all the villages where the Nunavik Commission held public hearings, it heard the region's taxpayers express the difficulties that they face under the current tax system. Access to the power of taxation for the Nunavik Government must be compatible with the wish, expressed numerous times, of not creating

a new level of taxation in addition to the federal and provincial levels. That is why the Nunavik Commission is proposing two provisions.

The first provision gives the Nunavik Government the ability to intervene in tax rates, with respect either to income tax or to sales tax. As is currently the case in Nunavut and Greenland, the Nunavik Government might decide on downward or upward variations in the tax rates imposed by the federal or provincial levels. To preserve the coherency of Québec and Canadian policies, this power should be limited by a minimum and a maximum percentage, set during the negotiations preceding the creation of the Nunavik Government. This provision could be used to lessen the tax burden on certain categories of taxpayers. On more than one occasion, the Nunavik Commission was informed that the price of fuel and equipment represents a major disincentive to the activity of hunters; such a provision could even make it possible to favour households that rely mainly on hunting and fishing, by lowering taxes on fuel purchases, for instance.

The second provision calls for the systematic reimbursement to the Nunavik Government, by the Government of Canada and by the Government of Québec, of the income tax and other taxes raised in Nunavik. To underscore the fact that Nunavik belongs to Canada and to Québec and must contribute to public service expenditures elsewhere in the country, this reimbursement should however not be in full. During the negotiations preceding the creation of a Nunavik Government, there should be an agreement on the proportion of these revenue that the governments of Canada and Québec should keep.

These two provisions translate the basic principle of the creation of a public government enjoying substantial and effective autonomy, while avoiding the creation of a new level of taxation, which would increase the already heavy tax burden supported by Nunavik taxpayers. Moreover, these provisions would be powerful symbols of the support

of the Government of Canada and of the Government of Québec for the level of autonomy enjoyed by the Nunavik Government.

Economic rents and royalties

The Nunavik Government should obtain shared jurisdiction over the territory and its resources, as proposed in chapter 9. These powers must be complemented by a sharing of economic rents and royalties obtained from the exploitation of the territory and its resources. Indeed, access to this shared jurisdiction is amply justified by the fact that the Nunavik Government is a public form of government founded on a territorial base and by the fact that rents and royalties could be the main source of self-revenue in a sparsely-populated area.

This issue is vast and complex. It comprises numerous and different situations, such as the construction and operation of small-size outfitting camps or industrial mega-projects, mining or hydroelectric developments for example, with each of these situations leading to specific types and levels of economic rents or royalties. The Nunavik Commission does not have sufficient data to present detailed recommendations concerning each branch of activity in question or each type of economic rent or royalty, or to propose, with a full knowledge of the facts, a precise formula for sharing these tax revenue. However, the Commission maintains that economic rents and royalties must be shared between the Nunavik Government and the Government of Québec, and that the terms and conditions of this sharing must be determined during the negotiations preceding the creation of the Nunavik Government. This idea of sharing wealth coming from land and resources has been implemented in Greenland within the arrangements between the Danish and the Greenlandic Governments.

Fees, fines and dividends of public enterprises

The Nunavik Government must be able to impose fees for the issue of licences and other documents, and fines in the event of the violation of regulations. Indeed, this is a complementary tool for the Nunavik Government to enforce its laws and regulations. There is a large variety of licences and permits and fines according to the list of powers that the Nunavik Government will have, presented in chapter 1. Some of these powers are exclusive whereas others are shared; as a result, in some cases, the fees and fines should only be imposed by the Nunavik Government, whereas in other cases, prior discussions should be held between the Nunavik Government and the Government of Canada and the Government of Québec to determine the roles of each level of government. A careful examination is required in this field, and should be carried out during the negotiations preceding the creation of a Nunavik Government.

The Nunavik Commission indicates in chapter 9 that some fields should be the subject of special attention during these discussions, namely: the issuing of licences in such fields as mining exploration, the operation of hunting and fishing outfitting establishments, the operation of food processing establishments for regional trade purposes, the imposing of fines in the case of violation of the conditions stipulated in the licences and permits, and the issuing of licences concerning games of chance and sales of alcohol.

Finally, the Nunavik Government must be able to create public service enterprises that would pay it dividends, where applicable. Indeed, the creation of a public service enterprise represents a tool for implementing certain policies. The Government of Greenland has several enterprises of this nature, which allows it to maintain fairly uniform prices for everyday consumer goods, regardless of the remoteness of the villages in which Greenland citizens reside.

Limits on fiscal sources

Access to tax revenue is necessary for the creation of a Nunavik Government, as has already been established. However, within the economic context of Nunavik, this access is insufficient to cover public expenditures at their current level. The expenditures of the Government of Canada and of the Government of Québec in Nunavik totalled in 1998 some \$243 million per year (72 percent spent by Québec and 28 percent by Canada), based on the data made available to the Nunavik Commission. Income tax would represent a maximum of \$21 million; all tax revenue, including sales taxes, would total approximately \$35 million, representing 14 percent of expenditures. In other words, even if all tax revenue raised in Nunavik were used to pay the costs of public services, it would still be necessary for the Governments of Canada and Québec to pay some \$208 million (in 1998 dollars), namely 86 percent of the total.

In Nunavik, expectations expressed in the public hearings appeared high concerning the revenue that could eventually be generated from economic rents and royalties in the hydroelectric and mining sectors. Yet the mining royalties currently obtained from mining activity in Nunavik are well below \$1 million annually. They could be greater if this activity were to increase, through the mining of a diamond deposit for example. The royalties obtained from diamond mining in the Northwest Territories would total some approximately \$35 million annually; if a similar development were to materialize in Nunavik, this sum would represent some 14 percent of the costs of public expenditures.

Other sources, which did not exist in the past, could be exploited in the future. The JBNQA contains no provision stipulating a sharing of income obtained from the exploitation of the territory's hydroelectric resources between the various signatories. However, there are indications that Hydro-Québec now sees the sharing of



revenue with interested partners as the wave of the future. Hydro-Québec has actually offered five regional county municipalities of the North Shore and the Lac-Saint-Jean regions, under certain conditions, the possibility to share a portion of the profits eventually obtained from the sale of electricity following the diversion of rivers flowing on their territory.

The Nunavik Commission believes that one must be careful not to count on the hope of major revenue from

economic rents and royalties for the funding of public services. Indeed, governments, and particularly regional governments, have little influence over decisions in the mining and energy fields, when compared to world economic factors such as prices and demand. Moreover, the setting of rents and royalties results in additional costs which the governments in question must take on. Based on the recommendations of this report, these royalties must be shared between the governments in question, which reduces the portion intended for the Nunavik Government. Finally, massive resource development can be detrimental for the environment which is certainly not a suitable future.

The other sources of tax revenue would have an even more limited potential. The revenue from licences, permits and fines are limited by their very nature; the presence of enterprises owned by Makivik Corporation, as well as the various corporations of Québec and Canada, limit the potential revenue that a Nunavik Government might obtain from the payment of dividends by public enterprises.

III. ACCESS TO NON-TAX REVENUE

Pursuit of equity

Transfer payments will remain essential for the budget of the Nunavik Government. These payments are made according to the government redistribution function, which leads the State to redirect towards regions that are less well-off economically the revenue raised in regions that are more well-off, in order to foster equity between citizens. This principle is commonly applied in the Arctic. For instance, Denmark covers some 60 percent of the budget of the Government of Greenland through transfer payments. The same is true for Canada where the federal government covers some 72 percent of the budget of the Government of the Northwest Territories and some 95 percent of the budget of the Government of Nunavut. If no change were made in the sharing of tax revenue, an almost identical proportion of the budget of the Nunavik

Government would have to be covered by transfer payments from the Government of Canada and the Government of Québec. The Nunavik Commission believes that the pursuit of equity between citizens must motivate the maintaining of the current level of transfer payments that are made to the public service organizations of Nunavik.

Consolidation of transfer payments

The transfer payments directed to the public services of Nunavik are the result of multiple agreements, come from various departments of the Governments of Canada and Québec, and follow various rules for their allocation, their use and accounting, etc., with the end result that regional public service organizations must use an important share of their resources for these operations rather than providing services to citizens. The Nunavik Commission believes that it is imperative to consolidate these transfer payments in a single block funding agreement for each of the two levels of governments, in order that a greater portion of the available funds be directly used to provide services to citizens.

IV. BLOCK FUNDING AGREEMENTS

The four block funding principles

Annual block funding is one of the major means for giving substantial and effective form to the autonomy of Nunavik, as it will provide the Assembly and the Government with the ability to allocate public funds to implement collective choices.

The Nunavik Commission does not have the required data to put forth concrete rules concerning block funding and believes that the negotiations on this subject will have to be carried out prior to the creation of the Nunavik Government. Nevertheless, based on the results of its consultations, the Commission is able to set four general principles to guide negotiations.

Firstly, given the division of jurisdictions between the various levels of government in the country, the Nunavik Commission believes that it is necessary to provide for two block funding agreements that the Nunavik Government would conclude, on the one hand with the Government of Canada, on the other with the Government of Québec.

Secondly, the Nunavik Commission believes that it is essential that the block funding agreements be deliberately clear to prevent the erosion of power of elected officials at its very base. The funding agreement between the Government of Canada and the Government of Nunavut, for example, appears to be extremely complex and technical. This situation limits the power of elected officials, because a basic part of their responsibilities escapes them, namely the composition of the budget. The Commission believes that the Greenland block funding agreement model, the result of calculations based on a limited number of basic indicators such as increases in prices and wages, and ratified through negotiations, should be examined in detail in the process to negotiate the block funding agreements for Nunavik.

Thirdly, block funding agreements should be concluded annually for the first five years. But to allow the parties to make adequate planning, each agreement should contain projections for a period of three to five years. Moreover, the method used to calculate the sums in question should permit an annual revision of the process and the figures during the first five years of its application; this exercise would make it possible to improve the method based on experience, in order to arrive at the best possible formula. Thereafter, there should be a possibility to make periodic reviews.

Finally, each block funding agreement should make it possible to preserve the guarantees found in the JBNQA, and preserve the advantages of any formula financing arrangements currently in effect. Likewise, it should

preserve the actual level of services and funding currently provided, and the access to the new programs of the governments of Canada and Québec. It should also include provisions having a limited duration, some to permit the upgrading of public services in certain fields, others to cover the expenditures associated with the creation of the Government of Nunavik.

Basic components of a block funding agreement

A block funding agreement should contain three basic components. Firstly, it should include the portion reimbursed to the Nunavik Government of the tax revenue raised in the region. Secondly, it should include the main allocation for the operation of institutions and the delivery of public services. Thirdly, it should include the sums required to make transfer payments to individuals under programs for which the Nunavik Government will be responsible. Finally, it should include an additional element for a transitional period, intended to cover the capital costs of the creation of the Nunavik Government, as well as the costs of upgrading public services.

The first component comprises the share of the proceeds from income tax and other taxes raised by the Government of Canada and by the Government of Québec. This component takes into account the decisions of the Nunavik Government modifying tax rates. The Nunavik Commission believes that it is essential that the Nunavik Government takes on full responsibility in the exercise of its power to intervene in the taxation field; as a result, it must be ready to accept an upward or downward variation in tax revenue, depending on the policies that it adopts in this field.

This first component also comprises the sharing of the proceeds from economic rents and royalties and, as the case may be, other tax revenue collected in the region by the Government of Canada and by the Government of Québec, which the latter has agreed to share with the Nunavik Government. While the sums in question may

be limited, as was previously established, the proceeds may vary considerably according to the economic situation and give rise to discussions on the relevance of reducing by a corresponding sum the other components comprised in the block funding agreement. The Nunavik Commission is of the opinion that an increase in this type of revenue must not lead to a corresponding decrease in the other components comprised in the block funding agreement. Indeed, such a measure could discourage government initiatives to develop the territory and its resources.

The second component refers to the main allocation for the operation of institutions and the delivery of public services. It consolidates all of the transfer payments currently paid to each public service institution that will enter into the Nunavik Government. It also includes the additional recurrent costs resulting from the creation of the Nunavik Government, for the operation of the Assembly, the Government, the Nunavik Wildlife Commission and the Nunavik Environmental Commission, and other agencies. The calculation of this element should be made according to the real costs of public services during a multiyear reference period preceding the creation of the Nunavik Government, and increased annually according to basic parameters having a direct impact on the costs of public services, for example: increase in the population, the actual consumer price index, the increase in wages and costs associated with collective agreements. Finally, this component includes the recurrent additional costs resulting from the upgrading of public services.

The third component takes into account the sums required to make the transfer payments to citizens under the programs for which the Nunavik Government will be responsible. This element will have to be the subject of a projection for the purposes of the payment of block funding prior to the start of the financial year, and an adjustment at the end of the financial year to cover the actual costs of the programs. As the variations in the sums in question will come from the application of federal and provincial

government programs, and fluctuations in the number of citizens eligible for the benefits of these programs, these variations should not result in corresponding variations in the other components comprised in the block funding agreement.

Finally, a block funding agreement should include an additional component for a transitional period of three to five years, intended to cover the capital costs of the creation of the Nunavik Government. This includes, if necessary, the construction costs associated with public buildings to house the Assembly, the Government, the Nunavik Wildlife Commission and the Nunavik Environmental Commission, and other agencies. It also comprises the funds required for the capital endowment of these two Commissions, and the capital cost of upgrading public services.

Structural changes within the framework of a block funding agreement

The conclusion of block funding agreements with the governments of Canada and of Québec supposes basic changes in the way they work, if not in their very structures. These two governments will have to designate, in their respective structures, a single window for the purpose of negotiating, concluding and implementing funding agreements with the Nunavik Government. In making these recommendations, the Nunavik Commission is aware of the scope of the challenge but believes that the single window approach is essential in order to arrive at the necessary funding agreements.

V. EXPENDITURES, SURPLUSES AND DEFICITS

The power to spend

The Nunavik Government will have to exercise this power effectively and efficiently. As a result, the overlapping of services will be reduced, if not eliminated completely, and in some cases the Nunavik Government will seek to enter into cooperation agreements with the other levels of

government rather than creating its own services. For example, the powers of the Government of Nunavik to change tax rates, to share economic rents and royalties, and to impose fees or fines, and to receive other tax revenue must not lead to the creation of an administration that would overlap administrations that already exist for these purposes. It would be unjustified to create a government agency in Nunavik to collect personal and corporate income tax, other taxes, economic rents, royalties and other revenue; this operation would constitute an unwise use of government funds, which would no longer be available to provide services to the population; it would unduly complicate the fiscal obligations of Nunavik taxpayers, who have often stressed how heavy the existing burden is.

Denmark and Greenland concluded an agreement whereby income tax is collected by the Danish Government, which then remits to the Greenlandic Government its share; there is a similar agreement between the governments of Canada and Nunavut. Such an agreement should exist between the Nunavik Government and the other levels of government involved, with respect to income tax and other taxes, economic rents and royalties, and several other cases involving tax revenue. The Nunavik Commission proposes that these discussions be held at the time of the negotiations preceding the creation of the Nunavik Government.

Respect for general programs

On more than one occasion, the citizens of Nunavik have told the Nunavik Commission that they expect nothing less than the level and quality of services made available to their fellow citizens in the southern part of the country. Consequently, a Nunavik Government should provide services at a level of quality that meets or exceeds current requirements.

The Political Accord from which the Nunavik Commission draws its mandate stipulates that the reality of the Arctic must be taken into consideration in the formulation of recommendations. This expectation of the Political Accord

is particularly true in the public service field. For example, rules of social aide benefits can be detrimental to some families that are forced by housing shortage to share a roof with another family. The Nunavik Government should be able to choose to provide alternative and adapted services, to take into account the reality of the Arctic. The Nunavik Commission believes that this question should be the subject of in-depth discussions during the negotiations that should precede the creation of the Nunavik Government. The agreements ensuing from these negotiations should include provisions allowing the Nunavik Government to make reasonable changes in the delivery of public services, taking into account the reality of the Arctic. The effect of these changes should not be to reduce the transfer payments paid by the Governments of Canada and Québec.

Borrowing power

The Nunavik Government must be able to borrow funds to finance capital expenditures and to maintain adequate cash flow.

Fiscal immunity

The Nunavik Government must be able to benefit from fiscal immunity to avoid the costs associated with the payment and refund of taxes between different levels of government.

Surpluses and deficits

The block funding agreements should take into account the upgrading of public services, the costs of the creation of the Nunavik Government, as well as new needs, new programs and exceptional or emergency situations. In this context, the Nunavik Government must take on and manage any surplus or deficit. Consequently, the surplus of a given fiscal year must not be identified as a reason for reducing the sums contemplated by the block funding agreements for the following year, just as the deficit of a fiscal year would not justify an increase of these sums.

Recommendation no. 7

Revenue and expenditures

ACCESS TO TAX REVENUE

- 7.1 The Nunavik Government shall be able to have access to tax revenue. More specifically, it shall be able:
- 7.1.1 to intervene in the income tax and sales tax rates;
 - 7.1.2 to receive a major share of the income taxes and other taxes raised in Nunavik;
 - 7.1.3 to receive a share of the economic rents and royalties obtained from the development of the territory and its resources;
 - 7.1.4 to impose fees and fines;
 - 7.1.5 to receive dividends from public service enterprises.

ACCESS TO NON-TAX REVENUE

- 7.2 The Nunavik Government shall be able to have access to non-tax revenue. More specifically, it shall be able to receive transfer payments that are at least equivalent to the current level of transfer payments allocated to the public service organizations of Nunavik.

BLOCK FUNDING AGREEMENTS

- 7.3 The Nunavik Government shall be able to conclude two block funding agreements, one with the Government of Canada, and one with the Government of Québec. The block funding agreements shall:
- 7.3.1 be clear and concise;

- 7.3.2 be concluded on an annual basis, but provide for longer-term projections;
- 7.3.3 be calculated according to a method revised annually during the first five years of its application, then revised periodically thereafter;
- 7.3.4 preserve the guarantees found in the JBNQA; the present level of service and funding; access to funding for upgrading services, for new programs, and for exceptional and unexpected situations or emergency;
- 7.3.5 include, as a basic component, the portion of the tax revenue raised in the region and reimbursed to the Nunavik Government;
- 7.3.6 include, as a basic component, the main allocation for the operation of the institutions and the delivery of public services;
- 7.3.7 include, as a basic component, the sums required to make the transfer payments to individuals, for which the Nunavik Government will be responsible;
- 7.3.8 include, as an additional element of a limited duration, the sums intended to cover the capital costs of the creation of the Nunavik Government and related institutions and agencies, and the capital costs of upgrading public services.

STRUCTURAL CHANGES

- 7.4 For the purposes of the funding agreements, the Government of Canada and the Government of Québec, shall respectively provide for a single window to the Nunavik Government.

PUBLIC EXPENDITURES

- 7.5 The Nunavik Government shall be able to spend its resources in the general interest and for the welfare of Nunavik and its residents with effectiveness and efficiency, responsibility and wisdom. More specifically, the Nunavik Government shall:
- 7.5.1 provide services whose quality meets or exceeds current standards;
 - 7.5.2 be able to use its resources to provide alternative or adapted services to take into account the arctic reality of Nunavik.

BORROWING POWER

- 7.6 The Nunavik Government shall be able to borrow funds.

FISCAL IMMUNITY

- 7.7 The Nunavik Government shall benefit from fiscal immunity.

SURPLUSES AND DEFICITS

- 7.8 The Nunavik Government shall be responsible for its surpluses and deficits.