

MODERN TREATIES WORKSHOP



**Land Claims Agreements
Coalition, Ottawa, February
2014**

HISTORIC & MODERN TREATIES

1. Historic Treaties

- **Pre-confederation**
- **1867 to 20th Century**

2. Modern Treaties

- **1973 to the present**

HISTORIC TREATIES

ROYAL PROCLAMATION OF 1763

- “whereas great Frauds and Abuses have been committed in purchasing Lands of the Indians”**
- “the same shall be Purchased only for Us, in our Name, at some public Meeting or Assembly of the said Indians”**
- “all Persons . . . upon any Lands not having been ceded to or purchased by us...[are] forthwith to remove themselves from such Settlements.”**

HISTORIC TREATY AREAS



NUMBERED TREATIES (1)

- **Treaties 1 (1871) to 11 (1921)**
- **Made with the King or Queen “of Great Britain and Ireland”**
- **Crown’s desire to open the tract “for settlement, immigration, travel, trade, mining, lumbering ”**
- **Indians “cede, release, surrender and yield up . . . all their rights titles and privileges whatsoever to the lands”**

NUMBERED TREATIES (2)

- Hunting, fishing and trapping rights recognized “throughout the tract surrendered”**
- Chiefs and Headmen to be “good and loyal subjects” and keep the Treaty**
- Reserves provided for – one square mile (e.g. Treaty 8) or 160 acres (e.g. Treaty 5) per family of five**

NUMBERED TREATIES (3)

- **Cash payment and annuities (usually \$5 a year)**
- **Tools and agricultural equipment (Treaty 8 and others)- cattle , etc.**
- **Salaries of teachers, school buildings and educational equipment**
- **Medicine chest (Treaty 6)**

MODERN TREATIES

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- **Modern Treaties are also known as Comprehensive Land Claims Agreements.**
- **Deal with Aboriginal rights & title flowing from land use and occupancy.**
- **Generally negotiated where Aboriginal rights & title have not been dealt with in previous treaties or by other means.**
- **Recognized in S. 35, *Constitution Act, 1982*.**

MODERN TREATIES –SECTION 35 (1)

Constitution Act 1982

RIGHTS OF THE ABORIGINAL PEOPLES OF CANADA

35.(1) “The existing aboriginal and treaty rights of the aboriginal peoples of Canada are hereby recognized and affirmed.”

(2) “In this Act, "aboriginal peoples of Canada" includes the Indian, Inuit and Métis peoples of Canada.”

MODERN TREATIES – SECTION 35 (2)

RIGHTS OF THE ABORIGINAL PEOPLES OF CANADA

35. (3) “For greater certainty, in subsection (1) "treaty rights" includes rights that now exist by way of land claims agreements or may be so acquired.”

GENERAL

52.(1) “The Constitution of Canada is the supreme law of Canada, and any law that is inconsistent with the provisions of the Constitution is, to the extent of the inconsistency, of no force or effect.”

BACKDROP TO MODERN TREATIES (1)

- **1971: *Alaska Native Claims Settlement Act***
- **1973: *Calder* case – Supreme Court of Canada on Nisga'a title in British Columbia**
- **1973: Federal policy for the negotiation of land claims**
- **1973 *Kanatewat* case - injunction to stop hydro developments in James Bay. Led to negotiations with Crees and Inuit of Quebec.**

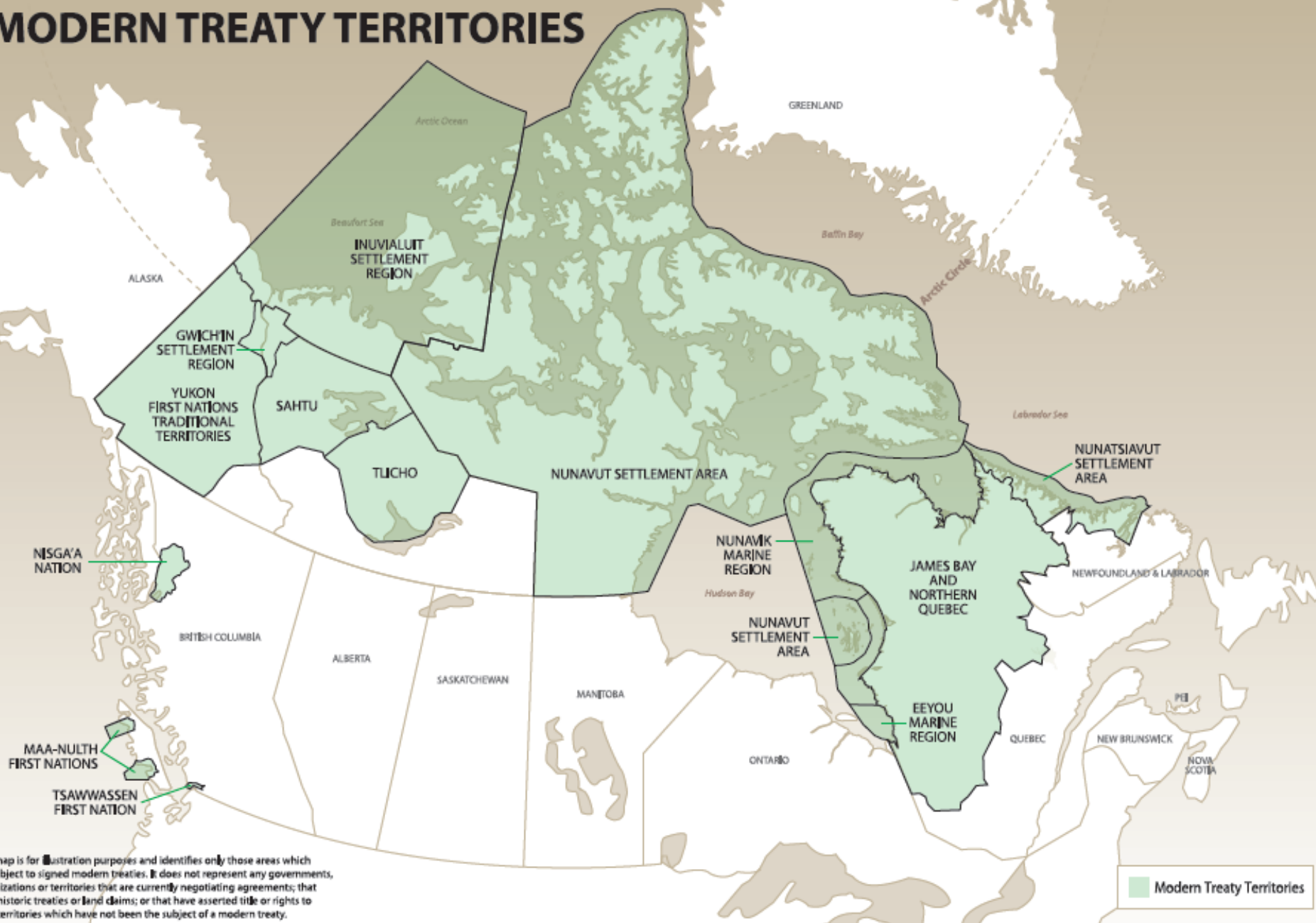
BACKDROP TO MODERN TREATIES (2)

- **1973 *Paulette* case** - raised issue of continuing Aboriginal rights in the Mackenzie Valley, despite Treaties 8 and 11
- **1978 *Baker Lake* case** found continuing Inuit rights in the Baker Lake area.

First Modern Treaty - James Bay & Northern Quebec Agreement, 1975



MODERN TREATY TERRITORIES



This map is for illustration purposes and identifies only those areas which are subject to signed modern treaties. It does not represent any governments, organizations or territories that are currently negotiating agreements; that have historic treaties or land claims; or that have asserted title or rights to their territories which have not been the subject of a modern treaty.

MODERN TREATIES

Newfoundland & Labrador

- **Labrador Inuit Land Claims Agreement (2005)**

Quebec

- **James Bay and Northern Quebec Agreement (1975)**
- **North-Eastern Quebec Agreement (1978)**

MODERN TREATIES (2)

Nunavut

- Nunavut Land Claims Agreement (1993)
- Nunavik Inuit Land Claims Agreement (2008)
- Eeyou Istchee Land Claims Agreement (2011)

Northwest Territories

- Gwich'in Comprehensive Land Claims Agreement (1992)
- Inuvialuit Final Agreement (1984)
- Sahtu Dene & Metis Comprehensive Land Claim Agreement (1994)
- Tlicho Land Claims & Self-Government Agreement (2003)

MODERN TREATIES (3)

Yukon

- **Umbrella Final Agreement (1993)**
- **Yukon First Nation Final Agreements**
 - **Champagne and Aishihik First Nations (1995)**
 - **First Nation of Na-Cho Nyäk Dun (1995)**
 - **Teslin Tlingit Council (1995)**
 - **Vuntut Gwitchin First Nation (1995)**
 - **Little Salmon/Carmacks First Nation (1997)**
 - **Selkirk First Nation (1997)**

MODERN TREATIES (4)

■ *Yukon (cont.)*

- Tr'ondëk Hwëch'in (1998)
- Ta'an Kwächän Council (2002)
- Kluane First Nation (2004)
- Kwanlin Dün First Nation (2005)
- Carcross/Tagish First Nation (2006)

British Columbia

- Nisga'a Final Agreement (2000)
- Tsawwassen First Nation Final Agreement (2009)
- Maa-Nulth Final Agreement (2012)

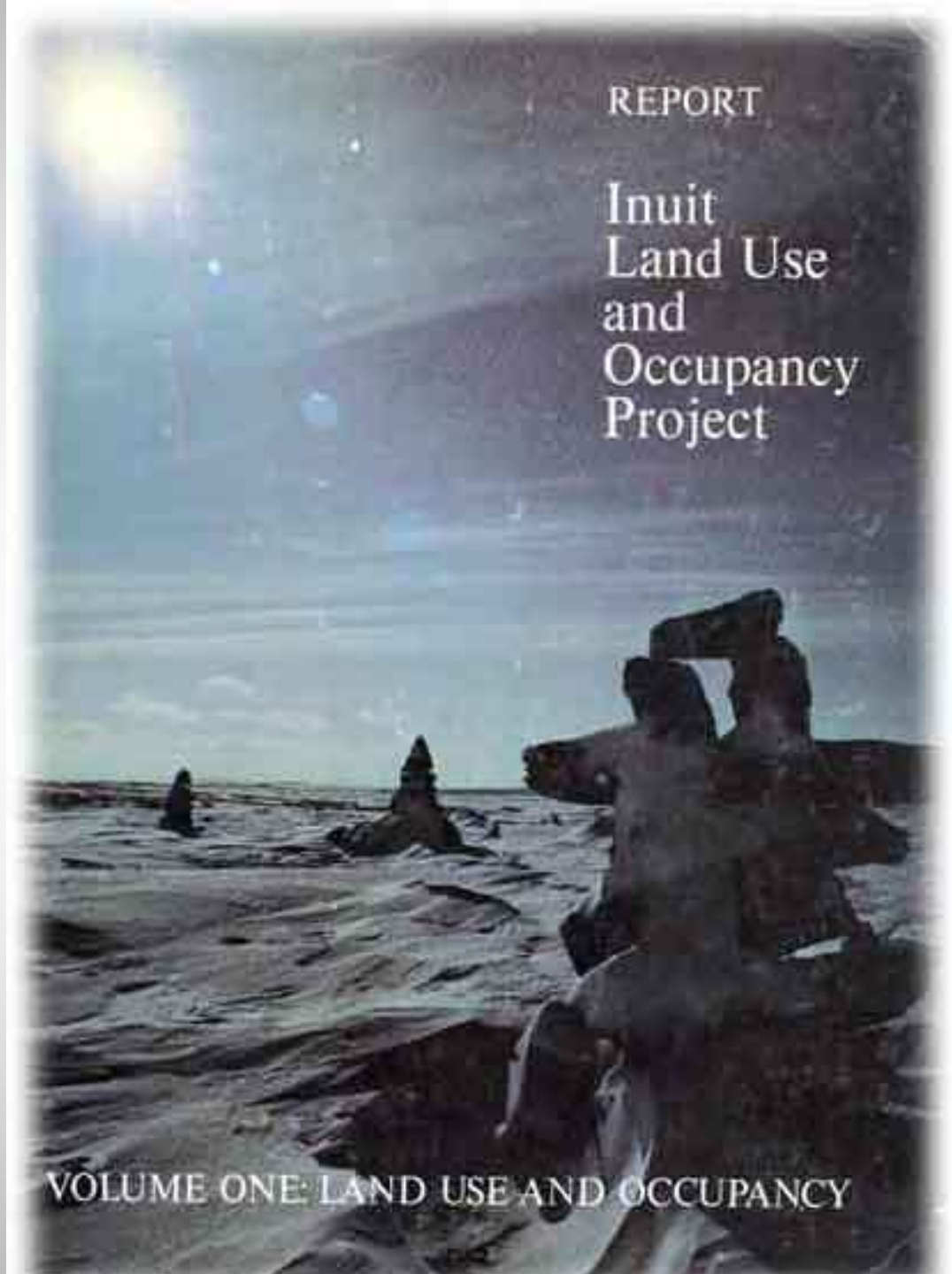


**NUNAVUT
LAND CLAIMS
AGREEMENT**

NWT Inuit Land Claim

- **Inuit Tapirisat of Canada [now ITK] established, 1971**
- **NWT Inuit Land Use and Occupancy study, 1974-75**
- **First NWT Inuit settlement proposal, 1976**
- **Inuvialuit decided to negotiate own agreement, 1976**

INUIT LAND USE & OCCUPANCY STUDY



VOLUME ONE: LAND USE AND OCCUPANCY

Nunavut Land Claims Agreement

- **Tungavik Federation of Nunavut (TFN) established to negotiate NLCA, 1982**
- **Agreement-in-Principle signed, 1990**
- **NLCA approval by referendum, November, 1992**
- **Signed by Prime Minister of Canada, TFN, & GNWT, May 25, 1993**

Nunavut Land Claims Agreement 1993



NLCA – Basics (1)

Parties

➤ Inuit of the Nunavut Settlement Area

➤ Represented by Tungavik

and

➤ Her Majesty, the Queen in right of Canada

➤ Government of the NWT a signatory, not a party.

NLCA – Basics (2)

Certainty

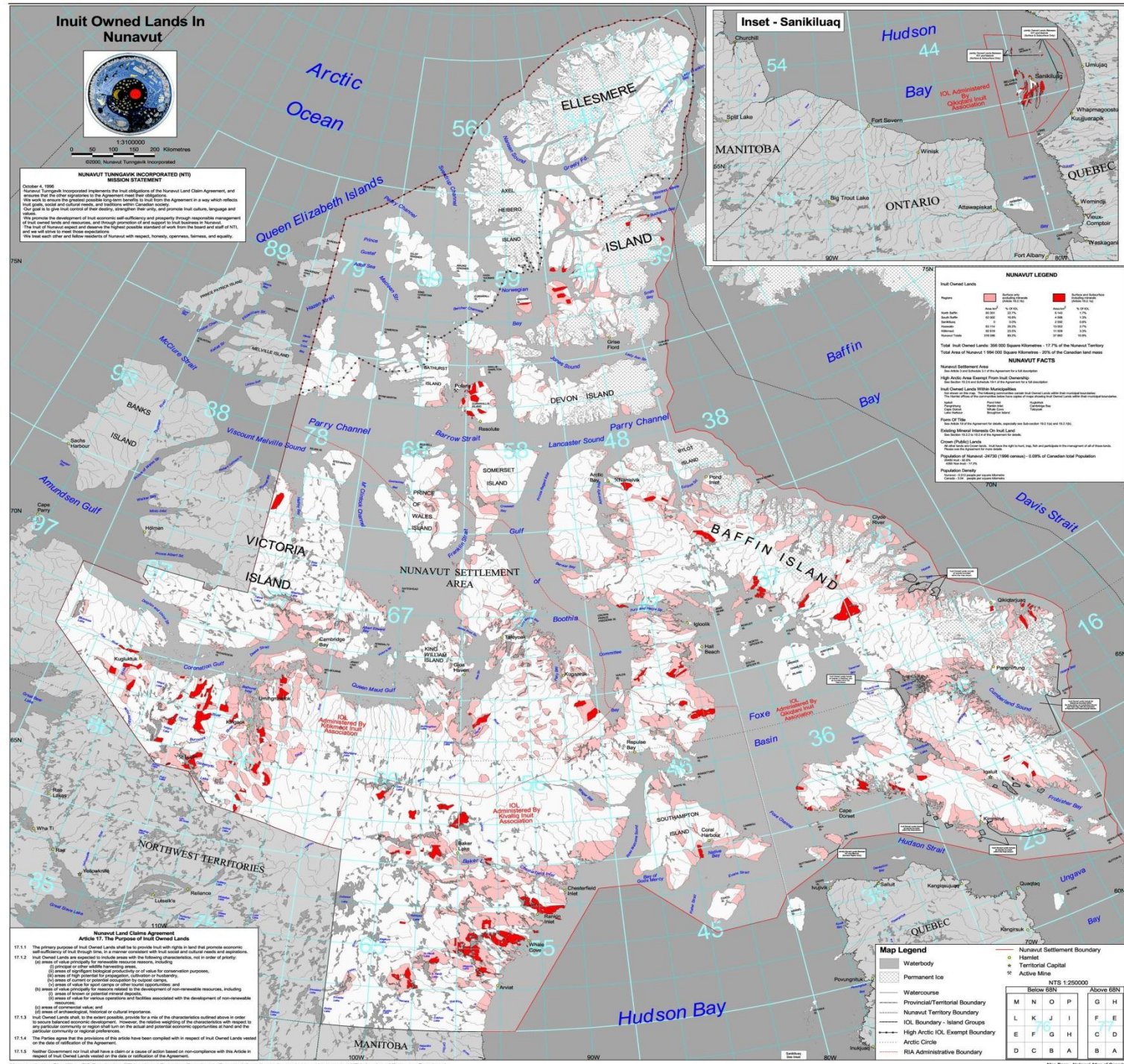
2.7.1 “In consideration of the rights and benefits provided to Inuit by the Agreement . . .”

2.7.1 (a) Inuit “cede, release and surrender to Her Majesty . . . all their aboriginal claims, rights, title and interests, if any, in and to lands and waters anywhere within Canada and adjacent offshore areas . . .”

42.1.1 “Section 2.7.1 shall not apply in and to lands and waters in Manitoba. . .”

NUNAVUT TUNNGAVIK INCORPORATED (NTI)

October 4, 1996
Naanwan Tsimilivik Incorporated implements the land obligations of the Naanwan Land Claim Agreement, and assures that the other signatories to the Agreement meet their obligations.
 Our goal is to ensure the greatest possible living and working conditions for all of our people in a way which reflects their goals, social and cultural needs, and traditions within Canadian society.
 Our goal is to give full control of their destiny, strengthen their unity, and promote their culture, language and self-determination.
 We promote the development of land to land economic self-sufficiency and prosperity through responsible management of land owned lands and resources, and through provision of and support to land business in Naanwan.
 We will implement economic and business development programs to the highest possible standard of work from the lowest and best of NTL, and we will strive to meet those expectations.



Map compiled by: Glen Kilian, GIS Coordinator - NTI Lands and Resources Department - For more information, or to report errors, please contact NTI's Lands and Resources Department

OBJECTIVES OF THE NLCA (PREAMBLE)

- **Certainty and clarity in land ownership**
- **Inuit participation in management of lands and resources, including the offshore**
- **Inuit wildlife harvesting and management rights**
- **Financial compensation and economic opportunity**
- **Inuit self-reliance and social and cultural well-being**

NLCA Inuit Benefits (1)

- **Right to determine who is an Inuk**
- **350,000 km² of land (fee simple title)**
- **38,000 km² of subsurface title**
- **Establishment of a new territory and government of Nunavut**
- **Commitment to representative Inuit employment in government**
- **Inuit participation in Institutions of Public Government (management boards)**

NLCA Inuit Benefits (2)

- **Capital transfer payments of \$1.148 billion (to Nunavut Trust)**
- **% of royalties from oil, gas and mineral developments on Crown lands**
- **Industry to negotiate benefit agreements for non-renewable resource development**
- **Government to negotiate benefit agreements for Parks and Conservation Areas**

NLCA Inuit Benefits (3)

- **\$13 million training fund**
- **Federal and territorial contracting policies to be developed for Inuit firms**
- **Right to harvest wildlife throughout the Nunavut settlement area**
- **Inuit participation in international conventions and treaties re wildlife**
- **Principle of adjacency in allocating commercial fishing licenses**

Nunavut Land Claims Agreement Act (1)

Ratifying Legislation

Royal Assent June 10, 1993

- 4. (1) “The Agreement is hereby ratified, given effect and declared valid.”**
- (2) “. . .the Agreement is binding on all persons and bodies that are not parties to the Agreement.”**
- (3) “any person or body on which the Agreement confers a right, privilege, benefit or power or imposes a duty or liability may exercise the right, privilege, benefit or power, shall perform the duty or is subject to the liability, to the extent provided for by the Agreement.”**

Nunavut Land Claims Agreement Act (2)

Conflict

6. (2) “In the event of an inconsistency or conflict between this Act and any other law, this Act prevails to the extent of the inconsistency or conflict.”

Appropriation

9. “There shall be paid out of the Consolidated Revenue Fund the sums required to meet the monetary obligations of Her Majesty under Articles 25 and 29 of the Agreement . . .”

Nunavut Wildlife Management Board (NWMB)

10. NWMB is established as a corporation.

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