

IN THE NUNAVUT COURT OF JUSTICE

BETWEEN:

**THE INUIT OF NUNAVUT AS REPRESENTED BY
NUNAVUT TUNNGAVIK INCORPORATED**

Plaintiff

- and -

**THE QUEEN IN RIGHT OF CANADA AS REPRESENTED BY
THE ATTORNEY GENERAL OF CANADA**

Defendant

REPLY AND JOINDER OF ISSUE

1. In reply to paragraphs 10, 17, 27, 63 and 64 the Plaintiff ("NTI") states that:
 - a) In 2001, in anticipation of the expiry of the initial 10-year funding period of the Implementation Plan, NTI proposed the commencement of negotiations to update and renew the Implementation Plan;
 - b) The Crown insisted that its representative on the Implementation Panel was not authorized to engage in negotiations with NTI to update the Plan;
 - c) The Crown insisted that in such negotiations it would be represented by an official specifically authorized to negotiate with NTI;

- d) Negotiations ensued until, in 2004, the Crown unilaterally withdrew its negotiator, thereby terminating the negotiations;
- e) The Crown refused to appoint a new negotiator despite the expiry of funding levels and other aspects of the initial planning period of the Implementation Plan; since 2004, it has unilaterally established funding levels for implementation of the Agreement without the approval of the other parties to the Implementation Plan;
- f) In view of the impasse over renewal of the Implementation Plan, the elected representatives of the parties to the Plan, being the Minister of DIAND, the President of NTI, and the Premier of Nunavut, agreed to appoint a Conciliator;
- g) On January 25, 2006, the Conciliator issued an Interim Report making recommendations on a process for the establishment of funding levels for the Institutions of Public Government (IPGs) established pursuant to the Agreement;
- h) Notwithstanding the Implementation Panel's recommendation that the Crown implement the funding levels for IPGs resulting from the recommendations of the Conciliator, the Crown has never done so;
- i) On March 1, 2006, the Conciliator's Final Report was delivered to the Minister of DIAND, the President of NTI and the Premier of Nunavut;

- j) By letter dated June 22, 2006, to the President of NTI and the Premier of Nunavut, the Minister of DIAND communicated the Crown's position that the Conciliator's recommendations for measures to achieve the objectives of Article 23 were not within the scope of the Agreement and that the Crown would not deal with those recommendations as measures required to implement the Agreement;
- k) The Minister proposed the establishment of an *ad hoc* "working group", which would have no authority to engage in concrete negotiations to renew the Implementation Plan or deal with the full range of outstanding implementation issues;
- l) In lieu of an *ad hoc* working group, NTI, by letter dated June 29, 2006, asked the Minister to appoint a negotiator with sufficient authority to permit the parties to engage in meaningful negotiations to resolve the impasse over the renewal of the Implementation Plan and deal with outstanding implementation issues;
- m) By letter dated October 5, 2006, the Minister informed NTI that he had no mandate on behalf of the Crown to conclude a renewal of the Implementation Plan that addressed the issues set out in the Conciliator's Final Report. The Minister declined to appoint a negotiator to enter into negotiations with NTI to address the issues involved in updating the Implementation Plan;
- n) Since delivery of the Conciliator's Final Report, the Crown has taken no steps to resume meaningful negotiations with NTI concerning funding and other issues necessary

to renew the Implementation Plan, despite NTI's willingness at all times to enter into such negotiations;

o) The work of the Implementation Panel in relation to the issues addressed in the Conciliator's Final Report was effectively put into abeyance following the Report. Until the elected representatives of the parties determined how they wished to proceed, the parties' representatives on the Panel had no ability to deal with those issues;

p) The Implementation Panel has never acted as the forum for negotiations to update the Implementation Plan. Pursuant to the Agreement, the functions of the Implementation Panel are, *inter alia*, to make recommendations concerning funding levels necessary for implementation of the Agreement for periods beyond the initial 10-year period and to make recommendations for the updating of the Implementation Plan to address other implementation matters. The Crown's position since 2001 has always been that its representative on the Implementation Panel is not authorized to engage in negotiations on the Crown's behalf for the purpose of updating the Implementation Plan;

q) NTI's representatives on the Implementation Panel have at all times been willing and able to attend meetings of the Implementation Panel to carry out the functions of the Panel as set out in the Agreement.

2. The Plaintiff joins issue on the Statement of Defence.

DATED at Ottawa, on April 24, 2007, and delivered by Dougald E. Brown, solicitor for the Plaintiff, whose address for service is c/o Nunavut Tunngavik Incorporated, Igluvut Building #921, P.O. Box 638, Iqaluit, Nunavut X0A 0H0.



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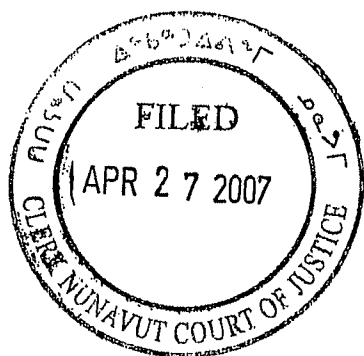
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REPLY AND JOINDER OF ISSUE

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