

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

PARTICULARS

(Response to Demand for Particulars dated April 25, 2007)

1. (a) the promises referred to in paragraphs 12, 18, 20, 23 and 85 of the Statement of Claim are the rights and benefits referred to in paragraph 4 of the Statement of Claim and section 2.7.1 of the Nunavut Land Claims Agreement (“the Agreement”) which the Crown contractually promised to provide in exchange for surrender of aboriginal claims, rights, title and interests in the Nunavut Settlement Area;
- (b) the proper and adequate funding referred to in paragraphs 12(a) and 86(a)(i) of the Statement of Claim means funding in accordance with subsection 37.1.1(e) of the Agreement;

- (c) the “adequate funding” referred to in paragraphs 12(b), 42 and 86(a)(ii) of the Statement of Claim is funding in an amount paid in accordance with subsection 5.7.13 of the Agreement sufficient to permit HTOs to effectively carry out their operation. See paragraphs 38 to 42 of the Statement of Claim. In relation to paragraph 66 of the Statement of Claim, it is funding paid in accordance with Articles 8 and 9 of the Agreement sufficient to permit the Umbrella IIBA for Territorial Parks to be implemented. In 2002, the amount necessary for implementation of the said IIBA was variously costed at between \$14 million and \$27 million. To date, no amount of funding has been provided. In relation to paragraph 74 of the Statement of Claim, it is the funding referred to in subsections 37.1.1(d)(i) and 37.2.2(e) of the Agreement;
- (d) the “inadequate funding” referred to in paragraphs 30, 32, and 73 of the Statement of Claim means funding that is not adequate;
- (e) the “general monitoring plan” referred to in paragraphs 12(c) and 45 of the Statement of Claim is the plan provided for in subsection 12.7.6 of the Agreement. This term does not appear in paragraph 40 of the Statement of Claim;
- (f) the “governmental initiatives” referred to in paragraphs 18, 19(m) and 86(d)(v) of the Statement of Claim means activities and actions taken by the Government. This term does not appear in paragraph 16 of the Statement of Claim;

- (g) the representatives of Government referred to in paragraph 25 of the Statement of Claim are one senior official representing the Government of Canada and one senior official representing the Government of Nunavut. See section 37.3.2 of the Nunavut Land Claims Agreement;
- 2. Particulars of the breaches of the Agreement listed in paragraph 12 of the Statement of Claim are set out in paragraphs 27 to 85 of the Statement of Claim.
 - (a) “adequate employment and training” in paragraph 12(e) of the Statement of Claim refers to measures set out in the Agreement to meet the objective of Inuit participation in Government employment at a representative level. Particulars are provided in paragraphs 46 to 58 of the Statement of Claim;
 - (b) the Government of Canada has not monitored or evaluated the implementation of Article 24 of the Agreement;
 - (c) paragraph 12(l) is not limited to specific entities and includes funding levels for all of the implementation of the Agreement;
- 3.
 - (a) the “various provisions” are those set out generally in the Agreement. The provisions that are the subject of this action are those set out in the Statement of Claim (and these particulars).
 - (b) This is not a proper or necessary demand and the Plaintiff declines to respond to it.

- (c) This is not a proper or necessary demand and the Plaintiff declines to respond to it.
4. This is not a proper or necessary demand and the Plaintiff declines to respond to it.
5. This is not a proper or necessary demand and the Plaintiff declines to respond to it.
6. This is not a proper or necessary demand and the Plaintiff declines to respond to it.
7. This is not a proper or necessary demand and the Plaintiff declines to respond to it.
8. The Crown confirmed its withdrawal from negotiations in a letter dated November 5, 2004, from the Director-General of the Implementation Branch to NTI and the Government of Nunavut.
9. See paragraphs 68 and 69 of the Statement of Claim.
10. (a) The Crown refused to respond either at all or to engage in any detailed discussion in response to the following expert reports tabled or relied upon by Inuit:
- initial and revised funding submissions by all IPGs (NWMB, NPC, NIRB, NWB, SRT) and Arbitration Board, submitted during negotiations from 2001 – 2004 and during the conciliation and expert evidence orally rendered in support thereof;
 - comprehensive funding proposals supplied by the Government of Nunavut at the beginning of negotiations and thereafter (coordinated by Department of Executive

and Intergovernmental Affairs and with participation of line Nunavut Government departments having implementation responsibilities);

- proposals for a revised Implementation Contract including the general provisions of such Contract;
- “Towards a Strategy for Implementing Article 23 During the Next Ten Years”, paper prepared for NTI by Informetrica Ltd., May 2002;
- “The Cost of Not Successfully Implementing Article 23: Representative Employment for Inuit within the Government”, prepared for NTI and the Government of Nunavut by PricewaterhouseCoopers LLP, February 2003;
- “Annaumaniq: Implementing Article 23 of the Nunavut Land Claims Agreement”, prepared for NTI in cooperation with the Government of Nunavut, February 2003 (Vols. 1A, 1B, 2 and 3);
- budget proposals put forward with respect to the Nunavut Sivuniksavut program;
- all documents listed in Vols. 2 and 3 of Annaumaniq;
- “Five Year Review, Implementation of the Nunavut Land Claims Agreement”, Louise Vertes et al, 2000;

(b) The Crown never responded.

(c) The Crown did not respond to NTI.

11. This is not a proper or necessary demand and the Plaintiff declines to respond to it.

12. (a) Department of Finance

Treasury Board Secretariat

Public Service Commission

Human Resources Development Canada

Department of Fisheries

Department of the Environment

Office of the Commissioner of Official Languages

Office of the Auditor General

(b) This is not a proper or necessary demand and the Plaintiff declines to respond to it.

(c) This is not a proper or necessary demand and the Plaintiff declines to respond to it.

13. (a) (b) (c) The Crown's negotiators and other representatives informed NTI that a pre-determined global amount of money was available for implementation of all comprehensive land claim agreements and that apart from a modest top-up the share of this global amount that would be available for implementation of the

Nunavut Land Claims Agreement had been decided in advance of the negotiations with NTI concerning the ongoing implementation of the Nunavut Land Claims Agreement. The Crown refused to engage in negotiations concerning the amount of funding necessary to carry out specific itemized activities required in connection with the obligations in the Agreement. See paragraph 75 of the Statement of Claim.

14. (a) The formula provides for adjustments to offset inflation based on Canada-wide inflation calculations and does not track numerous cost pressures specific to Nunavut or the North.
- (b) Costs in Nunavut are rising faster than in southern Canada.
15. (a) This is not a proper or necessary demand and the Plaintiff declines to respond to it.
- (b) This is not a proper or necessary demand and the Plaintiff declines to respond to it.
16. (a) The conduct is set out in paragraphs 19(a) to (j) of the Statement of Claim;
- (b) The conduct occurred during the negotiations. See paragraphs 74 to 80 of the Statement of Claim;
- (c) See paragraphs 74 to 80 of the Statement of Claim;

(d) (e) The other steps and measures include revisions to the general provisions of the Implementation Contract, establishment of procurement policies pursuant to Article 24, and establishment of a general monitoring plan. The matters that NTI sought to refer to arbitration are set out in the various requests to arbitrate delivered to the Crown.

17. This is not a proper or necessary demand and the Plaintiff declines to respond to it.

18. This is not a proper or necessary demand and the Plaintiff declines to respond to it.

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22. This is not a proper or necessary demand and the Plaintiff declines to respond to it.

23. (a) This is not a proper or necessary demand and the Plaintiff declines to respond to it.

(b) The NWMB has been unable to conduct adequate harvest studies or traditional Inuit knowledge work.

24. This is not a proper or necessary demand and the Plaintiff declines to respond to it.

25. This is not a proper or necessary demand and the Plaintiff declines to respond to it.

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29. This is not a proper or necessary demand and the Plaintiff declines to respond to it.
30. (a) This is not a proper or necessary demand and the Plaintiff declines to respond to it.
- (b) (c) The Crown failed to undertake initiatives to increase Inuit participation in government employment to a representative level as required by section 23.2.1 of the NLCA. In addition, the Crown failed to undertake initiatives proposed by Nunavut Sivuniksavut, the Government of Nunavut and the conciliator. Many of these initiatives had been put forward in the period surrounding the signing of the NLCA in 1993, including “*Maximizing Inuit Employment in the Nunavut Government, Preliminary Projections on Training Requirements and Costs*,” produced by Atii Training Inc., for Indian and Northern Affairs Canada, in January 1993, based on background work done by Coopers and Lybrand, in the period between 1993 and the run-up to the creation of the territory and Government of Nunavut in 1999, and after 1999;
- (d) All proposed initiatives have been rejected.
31. (a) This is not a proper or necessary demand and the Plaintiff declines to respond to it.
- (b) see answer to 30(b) above;

(c) see answer to 30(c) above.

32. This is not a proper or necessary demand and the Plaintiff declines to respond to it.
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43. This is not a proper or necessary demand and the Plaintiff declines to respond to it.

44. All requests by NTI to the Crown to have matters referred to arbitration have been rejected by the Crown. All requests have been in writing addressed to the Director General, Implementation Branch. Requests to arbitrate were dated November 16, 2004; December 5, 2004; January 18, 2005; January 24, 2005; February 18, 2005 and April 18, 2005. Refusals were communicated to NTI by correspondence from the Director General, Implementation Branch. See letters to NTI dated April 18, 2005; July 21, 2005; November 30, 2006.
45. See paragraphs 75 to 80 of the Statement of Claim.
46. See response to 1(a) above.
47. This is not a proper or necessary demand and the Plaintiff declines to respond to it.
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DATED at Ottawa, on June 13, 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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No. 0806713CVC

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