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Report of the
**Auditor General
of Canada**
to the House of Commons

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Chapter 3
Inuvialuit Final Agreement



Office of the Auditor General of Canada

The October 2007 Report of the Auditor General of Canada comprises Matters of Special Importance, Main Points—Chapters 1 to 7, Appendices, and seven chapters. The main table of contents for the Report is found at the end of this publication.

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Chapter

3

Inuvialuit Final Agreement

All of the audit work in this chapter was conducted in accordance with the standards for assurance engagements set by the Canadian Institute of Chartered Accountants. While the Office adopts these standards as the minimum requirement for our audits, we also draw upon the standards and practices of other disciplines.

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Inuvialuit Final Agreement

Main Points

What we examined

In 1984, after 10 years of negotiations, the federal government and the Inuvialuit (the Inuit of the Western Arctic) signed the *Inuvialuit Final Agreement* (the Agreement). The Agreement transferred about 91,000 square kilometres of land to the Inuvialuit, along with a total payment of just under \$170 million; in return, the Inuvialuit relinquished their claim to 335,000 square kilometres that had been part of the original claim. The principles expressed by the Inuvialuit, and recognized by Canada in concluding the Agreement, include enabling Inuvialuit to participate equally and meaningfully in the economy and society of Canada's North and of the nation; protecting and preserving the wildlife, environment, and biological productivity of the Arctic; and preserving Inuvialuit cultural identity and values within a changing Northern society.

Toward those principles, the Agreement sets out a number of obligations for the parties, including those that are shared among various federal departments, with Indian and Northern Affairs Canada (INAC) acting as the lead. We examined the extent to which each department has met a selection of its specific economic, environmental, and wildlife obligations under the Agreement. We also looked at the steps INAC has taken to ensure that federal obligations are implemented and to identify, monitor, and report progress made toward realizing the principles of the Agreement.

As well as INAC, our audit included actions taken by Environment Canada, the Parks Canada Agency, Fisheries and Oceans Canada, and Public Works and Government Services Canada to meet their obligations under the Agreement.

Why it's important

Reaching agreement on land claims is essential to developing Canada's North. As with all comprehensive land claim agreements, the *Inuvialuit Final Agreement* is protected under the Constitution. It was the first such agreement signed north of the 60th parallel and only the third comprehensive land claim agreement in Canada. It has provided lessons for all 18 subsequent land claim agreements and has had an impact on their beneficiaries.

The federal government's efforts to meet its obligations under the Agreement are critical to its relationship with the Inuvialuit. They are also likely to influence how other Aboriginal groups negotiating future land claim agreements perceive the government's credibility.

What we found

- Though the *Inuvialuit Final Agreement* is a constitutionally protected agreement, the federal government has not met some of its significant obligations, often because it has not established the necessary processes and procedures or identified who was responsible for taking various actions. For example, it has not yet established a process to remove encumbrances (restrictions on use), as required under the Agreement, from 13 parcels of Inuvialuit land. This would transfer control and use of the land to the Inuvialuit. Some of these encumbrances should have been removed more than a decade ago. Furthermore, INAC erroneously transferred to the Inuvialuit in 1984 lands containing municipal infrastructure owned by the Government of the Northwest Territories and land that belonged to Transport Canada. INAC has not established a process to reacquire these lands in exchange for other lands.
- Federal organizations have not respected some of their contracting obligations under the Agreement. For more than a decade, government contracting policies did not reflect specific Agreement obligations to inform the Inuvialuit of federal contracts relating to the Inuvialuit Settlement Region (the Region). Departments still do not monitor their contracting practices within the Region and cannot provide assurance that current contracting obligations under the Agreement are being met.
- Some of the obligations under the Agreement have been met or are being met. For example, Environment Canada, Fisheries and Oceans Canada, and the Parks Canada Agency have conducted wildlife and fish research and monitoring, in close consultation with the Inuvialuit. Federal organizations have collaborated with joint management boards and committees established under the Agreement and have provided advice to environmental screening and review bodies upon request.
- Twenty-three years after the Agreement came into effect, INAC still has not developed a strategy for implementing it. INAC has never formally identified federal obligations under the Agreement or determined which federal departments were responsible for which obligations. It has not developed a plan to ensure that federal obligations are met. The Department does not have a strategic

approach to identify and implement Canada's obligations, nor does it monitor how Canada fulfills them.

- Despite repeated commitments to do so, INAC has not taken action to address the findings of a required review of the Agreement's economic measures carried out in 2001. The review found that the economy of the Region had not improved since the signing of the Agreement, that the objectives of the economic measures had not been met, and that the Inuvialuit were falling behind their Northern neighbours.
- Indian and Northern Affairs Canada, as the federal lead, has taken no action to ensure that progress toward achieving the principles of the Agreement is monitored. In fact, officials stated that they do not view this as the Department's responsibility. The Department has not developed performance indicators and does not have a comprehensive picture of progress toward the three fundamental goals expressed in the Agreement.

The Departments have responded. The federal organizations we audited have accepted all of our recommendations. In their responses published with our recommendations throughout the chapter, they have indicated the actions they are taking or plan to take.

Introduction

Land Claims and Northern Development

3.1 In 1973, a Supreme Court of Canada decision in *R. vs. Calder* confirmed that Aboriginal peoples had Aboriginal title to lands they traditionally used and occupied. In 1982, existing Aboriginal and treaty rights were recognized and affirmed in the *Constitution Act*. Section 35 recognized and affirmed Aboriginal and treaty rights. Comprehensive land claims, as a form of treaty, are therefore constitutionally protected.

3.2 Also in 1973, world oil prices spiked and Canada began intensive efforts to locate new domestic supplies of energy. Aboriginal concerns related to these efforts led to hearings, chaired by BC Supreme Court Justice Thomas Berger, concerning what parties had a say in the exploration and development of pipelines running through the North. In his 1977 report on those hearings, Mr. Justice Berger asserted the importance of the Government of Canada's settlement of land claims prior to proceeding with development in the North.

3.3 According to Indian and Northern Affairs Canada (INAC), comprehensive land claims are based on the assertion of continuing Aboriginal rights and title to lands that have not been dealt with by treaty or other means. The purpose of land claim agreements is to provide certainty for all parties and to clarify the rights of Aboriginal groups to lands and resources, in a manner that is intended to facilitate Aboriginal peoples' economic growth and self-sufficiency. Comprehensive land claim agreements recognize Aboriginal claimants' rights based on traditional land use and occupancy (Aboriginal title and rights). These agreements provide defined rights, compensation, and other benefits in exchange for relinquishing rights related to title claimed over all or part of the land in question.

3.4 Modern comprehensive land claim agreements contain numerous provisions and are complex. They generally contain a land transfer specific to the Aboriginal group along with a cash settlement, while the Aboriginal group relinquishes its claimed rights to additional lands and interests outside of the settlement area. Land claim agreements can also address such things as how the land claim settlement region is to be managed, the extent of claimants' control and involvement in development, and the roles, responsibilities, and obligations of each party. Some of these obligations entail specific,

one-time activities, while others involve changing processes such as environmental reviews and federal contracting practices.

3.5 Land claim agreements are not designed to end relations among governments and the Aboriginal groups; they are designed to change those relationships. INAC has signed 21 comprehensive land claim agreements since 1975 and has approximately 25 staff specifically dedicated to their implementation. Other staff support the implementation of specific obligations as the need arises.

The Inuvialuit Final Agreement

3.6 The pursuit of an Inuvialuit land claim began in 1974. An agreement-in-principle was signed in 1978, and negotiations between the Inuvialuit and the federal government continued until the signing of the *Inuvialuit Final Agreement* (the Agreement) 23 years ago, in 1984. At the time, it was the first comprehensive land claim agreement signed north of the 60th parallel and only the third comprehensive land claim agreement finalized in Canada.

3.7 Section 1 of the Agreement identifies three principles:

- to preserve Inuvialuit cultural identity and values within a changing Northern society;
- to enable the Inuvialuit to be equal and meaningful participants in the Northern and national economy and society; and
- to protect and preserve Arctic wildlife, environment, and biological productivity.

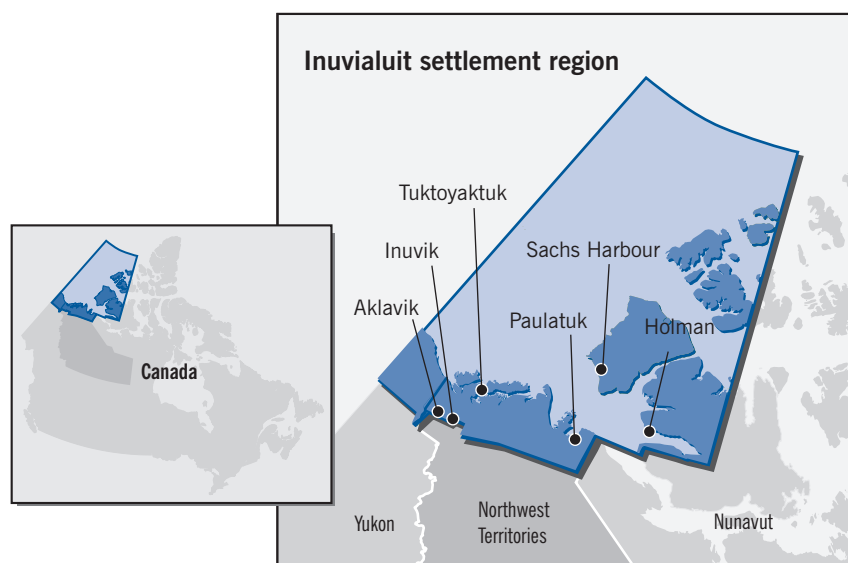
3.8 Under the Agreement, the Inuvialuit received, along with a total payment of just under \$170 million, title to about 91,000 square kilometres of land within the Inuvialuit Settlement Region (the Region) as shown in Exhibit 3.1. In return, the Inuvialuit relinquished their claim to 335,000 square kilometres that had been part of the original claim.

3.9 There was to be a federal cash transfer of \$152 million over the first 14 years after the Agreement came into effect, as well as a \$10-million economic development fund and a \$7.5-million social development fund. The Agreement's other economic measures include various Inuvialuit rights related to federal government contracting within the Region. The Agreement places Inuvialuit membership on environmental and wildlife screening and advisory bodies, and sets out numerous obligations for its signatories.

3.10 The Agreement has contributed to direct and permanent changes in the means and process by which the Region is managed. One of the provisions created the Inuvialuit Regional Corporation and its subsidiaries, which received the federal transfer of funds. The Inuvialuit Regional Corporation, which is owned by the Inuvialuit, has become significant within the Northwest Territories and beyond. According to INAC, there were about 3,400 beneficiaries to the Agreement in 2004. As part of the Agreement, every Inuvialuit over 18 years of age receives payments based on the operating profits of the Corporation. Each Inuvialuit community has a community corporation. Collectively, the community corporations control the Inuvialuit Regional Corporation.

3.11 Another important aspect of the Agreement is the creation of co-management committees, boards, and councils. These bodies are responsible for environmental screening of proposed developments, environmental reviews, fisheries management, and wildlife advice. Collectively, these bodies consist of an equal number of appointees from the Inuvialuit and the federal government, and, in some cases, appropriate territorial governments. Through these bodies, the Inuvialuit have participated directly in the control of development and conservation activity within the Region.

Exhibit 3.1 Inuvialuit settlement region



Focus of the audit

3.12 We examined the federal government’s implementation of its obligations in relation to the *Inuvialuit Final Agreement*. Specifically, we examined federal government activities designed to meet a select number of specific federal obligations. We also examined how Indian and Northern Affairs Canada—the lead federal organization—planned for, carried out, and monitored the implementation of Canada’s obligations under the Agreement. Finally, we assessed whether, or how, INAC monitored and reported on the extent to which the Agreement’s principles were realized.

3.13 As well as INAC, our audit included the Parks Canada Agency, Fisheries and Oceans Canada, Environment Canada, and Public Works and Government Services Canada, each of whom have responsibilities with respect to specific obligations under the Agreement. We did not audit other signatories and participants in the Agreement, including the Yukon and Northwest Territories governments and the Inuvialuit Regional Corporation and its subsidiaries.

3.14 More details about the audit objectives, scope, approach, and criteria are in **About the Audit** at the end of the chapter.

Observations and Recommendations

Meeting Federal Obligations

3.15 The *Inuvialuit Final Agreement* includes more than 80 provisions that obligate the federal government to undertake certain actions or activities. Some of these are specific, one-time obligations, such as transferring funds by a specific date. More than three quarters of these obligations, however, are ongoing, such as regular participation on boards and committees. We audited federal activities related to 29 of Canada’s obligations that we deemed important for fulfilling the Agreement. We expected federal organizations to have identified, planned how they would fulfill, and acted upon each of these obligations. We analyzed files and data records, and interviewed officials in each of the departments we audited.

Obligations have been met for capital transfers, park creation, and land transfers

3.16 Capital Transfers. One of the Agreement’s most important requirements was for the federal government to transfer funds to the Inuvialuit. As expected, we found that Indian and Northern Affairs Canada (INAC) has paid the prescribed amounts to the Inuvialuit Regional Corporation according to the schedule set out in the

Agreement. This included a series of payments over 14 years totalling \$152 million. It also included a federal transfer of \$10 million to establish an economic development fund and an additional \$7.5 million to establish a social development fund.

Pingo—A natural geological formation caused by the freezing of land in naturally drained lakes.

3.17 National Parks. Some of the important provisions relating to development within the Inuvialuit Settlement Region concern the creation of national parks. Canada created three national parks within the Region, including the Ivvavik National Park in 1984, the Aulavik National Park in 1992, and the Tuktoyaktuk National Park in 1996. The Parks Canada Agency (Parks Canada) also established the **Pingo** National Landmark near Tuktoyaktuk in 1997. Collectively, these parks exceed 38,000 square kilometres and represent some of Parks Canada's most northern properties.

3.18 Inuvialuit Settlement Region land transfer. With the signing of the Agreement and the subsequent passage of the *Western Arctic (Inuvialuit) Claims Settlement Act* 23 years ago, in 1984, Canada formally established the Inuvialuit Settlement Region, centered around the Beaufort Sea and stretching from the Alaskan border to Nunavut. While some of the land in this area remains within the control of the Crown, the passage of this Act transferred to the Inuvialuit approximately 91,000 square kilometres.

No process has been established for exchanging land

3.19 There were a number of land areas within the boundaries of the Region, however, which the federal government wanted to retain for various reasons. In the case of two locations, the Agreement calls upon the federal government to exchange other lands. The Agreement also commits the federal government to returning other sites to the Inuvialuit when it no longer needs those sites for the uses that it was making of them as of October 1978.

3.20 We expected INAC to have consulted with other federal organizations and the territorial government to identify federal and municipal structures on lands that were to be transferred upon the signing of the Agreement. We expected INAC to plan how it would carry out land exchanges for lands it wanted to use for national landmarks. We also expected INAC to identify when the Crown no longer needed Inuvialuit lands that remained under its control, and to return those lands to the Inuvialuit promptly.

3.21 Erroneous land transfers. The Government of the Northwest Territories has retained control of all territorial and municipal

responsibilities within the Inuvialuit Settlement Region. The territorial government continues to own assets such as sewage lagoons, solid waste sites, and water pumping stations. These sites are often located near, but outside, municipal boundaries. Various federal departments also have holdings within the Region for various purposes.

3.22 We found that INAC had not clearly determined which lands it was turning over. INAC did not confirm with other federal organizations or the territorial government that all their holdings would be excluded from the land transfer. In fact, while INAC excluded the municipalities themselves from the transfer, it inadvertently included land containing some 18 municipal structures that belonged to the territorial government. INAC also inadvertently transferred a section of the airport runway in Sachs Harbour, which belonged to Transport Canada. Transport Canada had not been informed that this holding was to be transferred.

3.23 Although 23 years have elapsed since the Agreement came into existence, INAC has not resolved this error. In 1991, INAC agreed to identify lands available for exchange with the Inuvialuit for the Airport runway at Sachs Harbour. Instead of doing so, the Department then asked the Inuvialuit to identify potential lands for exchange, but did not provide land selection criteria until 2002. Since then, INAC has had numerous discussions for an exchange of land for the airport runway. However, INAC has not developed a process for actively seeking alternative lands to achieve a land exchange. As a result, the discussions have faltered. At the time that our audit was drawing to a close, this issue was before arbitration.

3.24 INAC has also made no effort to assist the territorial government in acquiring lands containing its structures. This has resulted in the Inuvialuit billing the territorial government for using the lands that INAC transferred in error. Nevertheless, despite numerous requests by the territorial government, the Department has also consistently refused to assist the territorial government to pay those bills. At the time that our audit was ending, the territorial government was pursuing a land exchange with the Inuvialuit in the absence of federal support.

3.25 Pingo land exchange. When the Agreement was signed, there were two parcels of land the federal government wanted to keep: Nelson Head, at the southern tip of Banks Island; and a unique geological formation of pingos near Tuktoyaktuk. Both were potential sites of national landmarks. Parks Canada eventually decided not to develop a national landmark at Nelson Head and relinquished its hold

on that land. It did establish the Pingo Canadian Landmark in 1997. The Agreement included a provision for Canada and the Inuvialuit to negotiate a land exchange.

3.26 We found that INAC had not established an adequate process for meeting its obligation under the Agreement to provide alternative lands suitable to the Inuvialuit. INAC had not identified the basis on which the Inuvialuit could select replacement lands. Beginning in 1987, the Inuvialuit asked to begin negotiations for alternate lands. However, no negotiations have taken place. At the end of our audit, this issue was before arbitration.

3.27 Federally used Inuvialuit lands. When land title was originally turned over to the Inuvialuit, some lands were subject to restrictions, referred to as encumbrances, for continued use by the Crown and the Government of the Northwest Territories until such time as those existing Crown uses came to an end. These parcels of land included, for example, Department of National Defence Distant Early Warning (DEW) Line sites, and Environment Canada research stations. These lands were specifically identified in Annex R of the Agreement. We examined the status of the 20 parcels of land set aside for the federal government 23 years ago, in 1984. We expected that INAC would have monitored and coordinated the federal activities necessary to ensure that lands no longer required would be returned to the Inuvialuit. We also expected that each parcel of land that was no longer needed would be returned to them.

3.28 The federal government no longer needs 11 of the original 20 parcels of land, and portions of two other parcels, according to INAC's documentation. Between 1986 and 2005, the government stopped using these lands. Eleven of these 13 sites required environmental remediation before they could be turned over to the Inuvialuit. INAC documentation about these lands' current status is incomplete and inconsistent, but suggests that all 11 of the identified sites have, in fact, been cleaned up, and that all 13 sites were made ready to be turned over to the Inuvialuit between 1994 and 2005. The condition of at least three of these sites has since deteriorated and may require further environmental remediation.

3.29 We found that INAC had never concluded on a process by which federal organizations could return unneeded Annex R lands to the Inuvialuit. INAC officials proposed a process to organizations in 2003, but none of the other organizations with parcels of land responded to the proposal. INAC officials could not agree amongst themselves on the process and their roles and responsibilities in it. As a result, after more

than a decade in some cases, and despite numerous requests from the Inuvialuit, none of the encumbrances has been removed, and the Inuvialuit do not have control and use of these lands.

3.30 Recommendation. Indian and Northern Affairs Canada should develop and implement clear processes for

- ensuring the timely exchange of lands under the *Inuvialuit Final Agreement*, and
- cleaning up and returning control of parcels of land identified in Annex R that are no longer required by the federal government.

The Department's response. INAC accepts this recommendation.

- With respect to land exchanges, INAC will document the processes outlined in the *Inuvialuit Final Agreement* for use in future land exchanges; guidelines will be recommended for each step in the process to ensure timeliness by April 1, 2009.
- With respect to Annex R lands, INAC will review the process for cleaning up and returning control of parcels of land identified in Annex R and will make changes to improve its efficacy by April 1, 2008, drawing on the results of the removal of the encumbrance against title on Kittigazuit Bay, already under way.

Federal organizations did not respect Agreement contracting obligations

3.31 Section 16 of the Agreement obligates federal organizations to inform the Inuvialuit of contracts that relate to activities within the Inuvialuit Settlement Region and, when they submit the best bid, to provide the Inuvialuit with all contracts subject to public tender and with a reasonable share of contracts not subject to public tender, when they can supply the goods and services on a reasonable basis. The Agreement also obligates federal organizations to provide the Inuvialuit with economic opportunities in the national parks and landmark within the Region on a preferred basis. These contracting provisions were intended to be an important means of achieving full Inuvialuit participation in the Northern Canadian economy, and Inuvialuit integration into Canadian society.

3.32 We expected INAC, as the lead department for the Agreement, and Public Works and Government Services Canada (Public Works), as the contract authority for most of the federal contracts we reviewed, to identify, plan how to fulfill, and act on the federal government's contracting obligations. We examined whether INAC demonstrated leadership in fulfilling these obligations. We also examined contracts

for which Public Works was the contract authority, to determine if the contracting provisions under the Agreement had been followed.

3.33 We expected INAC, Public Works, the Parks Canada Agency, Fisheries and Oceans Canada, and Environment Canada to be able to demonstrate their compliance with the Agreement's contracting obligations, even though demonstration of compliance is not specifically stipulated in the Agreement. We sought confirmation from these five organizations that they were monitoring their compliance.

3.34 Informing federal organizations of their obligations. We found no evidence that INAC had informed other federal organizations about these provisions between 1984, when the Agreement was signed, and 1990. That year, the Deputy Minister of INAC sent a letter to his deputy ministerial colleagues advising them about the economic provisions within the Agreement. We found no evidence, however, of any subsequent meetings or activities to implement these provisions.

3.35 In 1993, the Inuvialuit launched an arbitration case against the Department of National Defence and INAC for failing to invite them to bid on two contracts awarded by Public Works to clean up numerous former Distant Early Warning sites, including six within the Region. In a 1994 decision, the Arbitration Board upheld the Inuvialuit position that this violated Section 16 of the Agreement, noting that the representative from Public Works had been unaware of the Department's obligations under Section 16 when the disputed procurement took place, and that, aside from INAC, the departments knew little about these obligations.

3.36 This decision was followed in 1995 with amendments to the Treasury Board Contracting Policy that specifically incorporated the provisions of the Agreement regarding obligations related to informing and awarding contracts to the Inuvialuit. The policy also recommended that contracting authorities obtain a current list of Inuvialuit businesses. Since that policy was developed, Public Works has revised the guidance it provides to its purchasing officers and refers them to the Treasury Board Contracting Policy.

3.37 Informing Inuvialuit of contracts. We sought to assess the extent to which Public Works notified the Inuvialuit of upcoming contracts relating to the Region. We found that although the Department tracks which contracts are subject to land claims agreements in general, it does not have a systematic means—automated or otherwise—of identifying the specific agreements to which each contract is subject.

3.38 Using automated search criteria, Department officials identified for us 2,704 files that were related to land claim agreements or to contracts that were reserved for Aboriginal businesses. From these, they were able to manually identify 49 contracts subject to the Agreement. Department officials advised us that these 49 contracts represented all of the contracts related to the Region.

3.39 To verify this information, we selected an additional eight contracts awarded by Public Works for activities that we believed might be subject to the Agreement. We asked Department officials to confirm whether or not these additional eight contracts were also subject to the Agreement and, if so, whether the Inuvialuit had been notified of them. We found that six of these additional contracts were in fact subject to the Agreement. We concluded that without a systematic means of tracking Public Works contracts that are related to the Agreement, the Department was unable to identify all of the contracts for which the Inuvialuit should have been notified.

3.40 The Inuvialuit had been informed of some, but not all, of the upcoming contracts in the Region. Of the original 49 contracts provided for our review by the Department, the Inuvialuit had been informed of 46. Of the additional six contracts that we had later identified and that proved to be related to the Region, the Inuvialuit had been notified of five. We note that the Department had informed the Inuvialuit of most the contracts we reviewed. However, because Public Works was unable to identify the total number of contracts related to the Region, we cannot conclude to what extent the Department is complying with the requirements of the Agreement.

3.41 Awarding contracts. The Agreement obligates federal organizations to award all contracts that were subject to public tender to the Inuvialuit when they submit the best bid. We sought to determine if Public Works tracked the publicly tendered contracts that it awarded to the Inuvialuit, and if it therefore could demonstrate whether this obligation was being met. We found that the Department relies on the government's contracting policy of awarding contracts to the compliant bidder offering the best value. The Department tracks contracting activities in general but does not track whether or not the Inuvialuit won publicly tendered contracts. Obtaining a current list of Inuvialuit businesses, as recommended by Treasury Board contracting policy, would, in our opinion, have facilitated the Department's ability to identify the proportion of contracts awarded to the Inuvialuit. We found that the Department did not obtain such a list.

3.42 The Agreement also obligates federal organizations to award to the Inuvialuit a reasonable share of contracts related to the Region that are not publicly tendered, if the Inuvialuit are capable of supplying the required goods and services on a reasonable basis. We expected that INAC, as the lead department for the Agreement, would have defined what is meant by “reasonable share” and that federal organizations would have ensured that non-competitively tendered contracts related to the Region would have been awarded in a manner consistent with that definition. We found that INAC has not defined what is meant by the term “reasonable share,” although it has considered the issue. Without defining this term and monitoring contract activities, INAC, on behalf of the federal government, cannot demonstrate the extent to which federal contracting in the Region supports the achievement of the economic objectives of the Agreement.

3.43 Contract obligations for national parks. We also sought to assess the extent to which Parks Canada awards those contracts that are related to the Region’s national parks and landmark to the Inuvialuit on a preferred basis, as required in the Agreement. We found that Parks Canada does not maintain records in sufficient detail to demonstrate whether or not it complies with these provisions. As such, we are unable to conclude on the extent to which these obligations are being met.

3.44 Monitoring contract obligations. In fact, all five federal organizations within the scope of our audit (INAC, Public Works, Parks Canada, Fisheries and Oceans Canada, and Environment Canada) advised us that they do not have a systematic means of tracking their contracting activities related to notification and contract awards relating to the Region. As a result, they are unable to ensure that they are meeting their contract obligations under the Agreement. Treasury Board Secretariat officials advised us that they have begun an initiative that would, among other things, improve monitoring and reporting of federal contracting obligations under comprehensive land claim agreements.

3.45 Recommendation. Indian and Northern Affairs Canada should clearly communicate to federal organizations the Government of Canada’s contracting obligations in relation to the *Inuvialuit Final Agreement*. In addition, INAC should define the Agreement’s term “reasonable share.” It should also provide guidance to federal organizations as to how to fulfill their contract obligations to award to the Inuvialuit a reasonable share of non-competitively tendered contracts that are related to the Region.

The Department's response. INAC accepts this recommendation. The Department will complete its work with Public Works, Treasury Board Secretariat, and the Canada School of Public Service on the development of a Comprehensive Land Claim Agreement training module for all federal procurement officers by March 2008. INAC will also take a leadership role in working with signatories and the Department of Justice to define "reasonable share" by December 2007, and will share this definition with federal organizations in order that they may be guided in their fulfillment of obligations relating to federal procurement.

3.46 Recommendation. In consultation with the Treasury Board Secretariat, Indian and Northern Affairs Canada, Public Works and Government Services Canada, the Parks Canada Agency, Fisheries and Oceans Canada, and Environment Canada should develop and/or enhance systems and procedures to enable them to monitor their compliance with the *Inuvialuit Final Agreement's* contracting provisions. To ensure compliance, these systems and procedures should monitor each federal organization's activities for

- notifying the Inuvialuit of contracts related to activities within the Region;
- awarding the Inuvialuit all contracts that are subject to public tender and related to activities within the Region, when the Inuvialuit submit the best bid;
- awarding the Inuvialuit a reasonable share of contracts that are not subject to public tender, that are related to activities within the Region, and for which the Inuvialuit are capable of supplying the required goods and services on a reasonable basis; and
- providing the Inuvialuit with contracts that relate to activities within the Region's national parks and landmark, on a preferred basis.

The Departments' responses. Agreed. Indian and Northern Affairs Canada, in consultation with Treasury Board Secretariat and Public Works and Government Services Canada, will provide guidance to departments on the appropriate level of monitoring required to ensure compliance with this Agreement's and similar agreements' contracting provisions, as reflected in Treasury Board policy requirements.

It is important to note that an interdepartmental working group has been established by Treasury Board Secretariat for the development of an amendment to the Treasury Board Contracting Policy, which will update the process for government procurement in the context of

comprehensive land claims agreements. The amendment will clarify departmental responsibilities for monitoring and reporting requirements of Crown procurements undertaken in regions covered by comprehensive land claims agreements, including the *Inuvialuit Final Agreement*.

It should be noted that departments do have systems to monitor compliance with the specific provisions of their contracts and that they recognize the need to monitor contract obligations relating to the agreements. To this end, Indian and Northern Affairs Canada, Public Works and Government Services Canada, the Parks Canada Agency, Fisheries and Oceans Canada, and Environment Canada will take measures to develop or strengthen, where necessary, systems and procedures to meet any new monitoring and reporting requirements that may be established by the Treasury Board within a year of their introduction.

In addition, the five audited departments will give full consideration to this recommendation as they review and, where necessary, enhance current systems and procedures to monitor the awarding of contracts to the Inuvialuit that are not subject to public tender, when they are capable of supplying the goods and services on a reasonable basis. Work on processes governing federal procurement to include provisions for contracting in national parks is already under way, and will be developed to capture the same information for other comprehensive land claims agreements.

This recommendation will be acted on by March 2009.

Economic Measures Review has not been acted upon

3.47 One of the Agreement's requirements is that INAC and the Inuvialuit complete a review of the effectiveness of the Agreement's section dealing with economic measures in the year 2000. This is to be repeated every five years thereafter until the federal government believes the economic objectives have been met adequately. We expected that INAC would have completed at least one review; that it would have identified, planned for, and taken action to address issues stemming from the review; and that it would have completed a second review if necessary.

3.48 INAC completed a joint economic measures review with the Inuvialuit and the government of the Northwest Territories in 2001. This review found that the economy of the Region had not improved since the signing of the Agreement, that the economic measures

objectives had not been met, and that the Inuvialuit were falling behind their Northern neighbours. The review suggests this will lead to future difficulties for the Region's economy. The review also observed that Canada and the Inuvialuit do not share the same vision for their respective roles and responsibilities. It noted that the Inuvialuit believe these measures were intended to create a pro-active, collaborative partnership, while Canada focuses on specific, clearly identified obligations.

3.49 The review noted that an economic evaluation framework that INAC developed in 1994 had not been used. As such, there was a lack of meaningful performance information. The review identified the need to collect economic performance information and to monitor progress on a regular basis.

3.50 After 17 months without a reply or any action from INAC, the Inuvialuit Regional Corporation proposed 26 recommendations in response to the economic review. Several months later, INAC responded to the Inuvialuit, agreeing to implement four of their recommendations, including the adoption of an economic evaluation framework. INAC also agreed to consider eight other recommendations, including one to address data gaps that the report identified.

3.51 We found that INAC had not followed through on any of these commitments. No one monitored progress towards the economic objectives of the Agreement, either before or after the 2001 review. In 2004, the Minister made a commitment to develop a five-year action plan to address the issues that the 2001 review identified. By the end of our audit, no progress had been made on this commitment.

3.52 In addition, although the Agreement requires that INAC and the Inuvialuit complete such a review every five years until the economic objectives have been met, we found that INAC has taken no action to initiate a subsequent economic review. INAC officials explained that the Inuvialuit Regional Corporation was not interested in having the Department complete another review until it had at least begun to take action on the results of the first review.

3.53 Recommendation. Indian and Northern Affairs Canada should meet its responsibilities related to the economic review by

- assessing reasons for lack of progress identified in the first review;
- taking actions to respond to the first review; and

- leading the completion of a joint economic measures review every five years, until such time as the economic objectives have been met, as required in the *Inuvialuit Final Agreement*.

The Department's response. INAC accepts this recommendation. An economic measures working group was established in February 2007. INAC will, through this working group, conduct assessments of community capacity and economic opportunities and assess reasons for the lack of progress by March 2009. Current plans call for the completion of the second five-year economic measures review in 2010.

Federal organizations implement environment and wildlife obligations

3.54 More than half of the Agreement's federal obligations are linked to the principle of environment and wildlife preservation, most of which involve ongoing commitments. We expected that Environment Canada, Fisheries and Oceans Canada, Parks Canada, and INAC would have acted on their obligations to participate on committees, councils, and the Environmental Impact Review Board. We also expected that they would provide expertise when requested to do so, and that they would staff federal positions in a timely manner. We furthermore expected that Parks Canada would have met its obligations related to the management of the national parks and the Pingo Canadian Landmark.

3.55 We examined federal support provided to the committees, councils, and Board, and we examined federal coordination of their review process with the *Canadian Environmental Assessment Act*. We assessed the federal appointment process supporting the committees, councils, and Board. We did not assess the activities of the committees, councils, and Board; nor did we assess the activities carried out under the *Canadian Environmental Assessment Act*.

3.56 Environmental Screening. The Agreement created two committees to consider the environmental impacts of most types of proposed developments, ranging from the Mackenzie Gas Project to the commercial filming of grizzly bears and caribou in Ivvavik National Park. The Environmental Impact Screening Committee (the Screening Committee) screens proposed development projects within the Region for their impact on the environment and wildlife. When the Screening Committee determines that a full environmental review of a proposed development is warranted, these can be referred to the Environmental Impact Review Board, also created under the Agreement. Both the Screening Committee and the Environmental Impact Review Board

are made up of equal numbers of appointees from the Inuvialuit and the federal government.

3.57 As expected, we found that Environment Canada, Fisheries and Oceans Canada, INAC, and Parks Canada actively collaborated with the Committee and Board, and advised them when asked for assistance. Furthermore, the federal government coordinated the environmental reviews that it made under the *Canadian Environmental Assessment Act* with the environmental reviews made by the Review Board.

3.58 Wildlife management advisory councils. The Agreement also provides for two wildlife management advisory councils, one for the North Slope, in the Yukon, and the other for the Region’s lands in the Northwest Territories. The councils’ role is to provide advice concerning the state of the Region’s wildlife and natural habitat. We found that federal officials actively work with and support these councils.

The Wildlife Management Advisory Council (North Slope)

This case study illustrates how the federal government works closely with the Wildlife Management Advisory Council (North Slope) to manage wildlife effectively on the Yukon Territory’s North Slope.

Federal organizations work with and support the wildlife management advisory councils established under the Agreement. The Councils help to ensure that wildlife in the Region is managed in a way that promotes conservation while balancing the importance of Inuvialuit harvesting rights.

The grizzly bear has traditionally been an important species in the subsistence harvest of the Inuvialuit. The Agreement recognizes the importance of balancing these harvesting rights with the principle of conservation. Over the past decade, North Slope residents have reported seeing an increasing number of bears. The territorial governments and Parks Canada conducted various research projects on grizzly bears on and around the North Slope, but there had not been a major population study in the area since 1975.

In 2004, in response to a recommendation of the Wildlife Management Advisory Council (North Slope), the Yukon government (Department of Environment), together with Parks Canada and the Aklavik Hunters and Trappers Committee, launched the Yukon North Slope Grizzly Bear Population Study. This six-year collaborative project provides information that will enable the development of a long-term grizzly bear monitoring program for the North Slope. This program will further the understanding of the impacts of human activities, and of other changes, on the population size, behaviours, and movements of grizzly bears.

3.59 Fisheries Joint Management Committee. Under Section 14 of the Agreement, Fisheries and Oceans Canada (DFO) is responsible for participating in a Fisheries Joint Management Committee that the Agreement established. One of the Fisheries Joint Management Committee’s responsibilities is to monitor the subsistence harvest of marine mammals and to recommend quotas to the Minister of

Fisheries and Oceans. We expected that DFO would participate in the Fisheries Joint Management Committee and would set quotas based on conservation principles, after consultation with the Inuvialuit.

3.60 We found that DFO has regularly attended the Fisheries Joint Management Committee's meetings and participated in field work. We also found that DFO, Parks Canada, and Environment Canada have consulted closely with the Fisheries Joint Management Committee. DFO established monitoring programs incorporating scientific expertise and traditional knowledge. This consultation has helped to confirm that, in most cases, there has been an abundance of marine mammals within the Region. As a result, quotas have rarely been used.

DFO Incorporates Traditional Knowledge in Marine Management

Fisheries and Oceans Canada has monitored the Inuvialuit traditional subsistence harvest of beluga whales since the early 1980s. At the time, department officials were concerned about the size of the beluga stock in the Beaufort Sea and were considering a quota system to manage the stock.

Inuvialuit harvesters felt that the Department's estimates of stock size were inaccurate. With the establishment in 1986 of the Fisheries Joint Management Committee, set up under the Agreement, DFO collaborated with the Committee to develop and implement a community-based beluga management plan instead of a quota.

The Beaufort Sea Beluga Management Plan was ratified in 1991. Under the plan, DFO participated in community-based monitoring programs and incorporated traditional knowledge in its research programs. In 1992, DFO's most comprehensive aerial survey confirmed large concentrations of beluga whales in Kugmallit Bay in the Mackenzie Estuary and offshore of the Tuktoyaktuk Peninsula stratum.

As a result of the joint participation in this co-management committee, DFO scientists have been working with Inuvialuit harvesters in managing the beluga. One study shows that Inuvialuit harvests of beluga have increased significantly, and DFO scientific studies confirm that the stock has not been depleted. Just as importantly, DFO now regularly incorporates Inuvialuit traditional knowledge into its management of fish and marine mammals within the Region.

3.61 Board member appointments. INAC, DFO, and Environment Canada are responsible for recommending appointments of 12 of the members and chairs to the five co-management committees, councils, and board created by the Agreement. Members are appointed for three-year terms. We examined whether departments recommended these appointments in a timely manner, to ensure that federal positions would not remain vacant.

3.62 We found that the federal government has been responsible for more than 60 appointments or reappointments to these boards since they were established. Twelve of these were delayed, seven of them in the last three years. Looking at all boards and positions, there were

vacant positions for a total of more than 130 months, over the past 20 years. We found, however, that these delays often occurred due to the necessity of waiting for ministerial or Governor in Council appointments, rather than due to recommendations from department officials. These delays have at times prevented the Board from reaching quorum at meetings. Board members have voiced concerns that these delays compromise their ability to reach timely and appropriate decisions about proposed developments.

3.63 Wilderness preservation and employment of Inuvialuit in national parks. Some provisions of the Agreement are to ensure the protection of wildlife populations and habitat within national parks. We found that these provisions were being met. Furthermore, we found that Parks Canada consulted regularly with the Inuvialuit, made use of their traditional knowledge, and hired elders for interpretive tours within the parks.

3.64 The Agreement obligates Parks Canada to train the Inuvialuit so they can qualify as park employees. It also obliges Parks Canada to ensure that at least half of the park employees in the Region are Inuvialuit. The Agency has provided us with a list of training initiatives for Aboriginal employees within the Region, and has also provided employment data for the last five years, which suggest that it has met these obligations.

Federal Implementation of the Agreement

Lack of a strategic approach to implementing federal obligations

3.65 Since the *Inuvialuit Final Agreement* is constitutionally protected, it is important that the Government of Canada establishes and maintains a focused, strategic approach to fulfilling its obligations under the Agreement. This is important not only for Canada's relationship with the Inuvialuit, but also for the government's credibility in negotiating future land claim agreements. We note that since the Agreement came into force in 1984, Canada has signed 18 other land claim agreements. When the Agreement was signed, the government gave Indian and Northern Affairs Canada (INAC) responsibility for coordinating its implementation. To this end, INAC made a commitment to ensuring that Canada honours its obligations and that INAC monitors and reports on the activities of federal organizations, including its own.

3.66 We examined INAC's management processes for implementing the Agreement. We expected that INAC would have identified each of the Agreement's provisions that entailed federal obligations. We expected that for each of Canada's obligations, INAC would have

identified which federal organization should be responsible for complying, and that INAC would have notified the organization of its responsibility. We further expected that INAC would have monitored implementation, and reported progress towards the fulfillment of each obligation.

3.67 We asked INAC to provide us with a list of federal obligations. We also prepared our own list, based on the Agreement. We asked INAC to confirm which federal organizations were responsible for each obligation, and we asked about those of INAC's activities that were designed to meet these obligations. We reviewed the Agreement's annual reports to Parliament and files within INAC, Fisheries and Oceans Canada, Environment Canada, the Canada Parks Agency, and Public Works and Government Services Canada. We analyzed the minutes of Implementation Coordinating Committee meetings and of interdepartmental meetings. Finally, we interviewed officials in each of these federal organizations.

3.68 Identifying federal obligations. We found that INAC had neither formally identified which obligations were Canada's responsibility nor which federal organizations were responsible for their implementation. Upon our request, INAC identified federal obligations and responsible federal organizations. INAC identified itself as solely responsible for close to half of the federal obligations. The other obligations were related to at least one other federal organization, often in conjunction with INAC. INAC had not formally communicated these responsibilities to the other organizations.

3.69 Instead, INAC had developed a list of 28 priorities for which all parties were responsible, such as establishing an enrolment authority to identify beneficiaries and creating various co-management boards, as stipulated by the Agreement. Over the past 20 years, INAC has considered numerous issues, but has never systematically determined Canada's obligations under the Agreement.

3.70 Implementing federal obligations. Most modern-day comprehensive land claim agreements include a specific requirement for developing an implementation plan. These plans generally determine what needs to be done, who is responsible for doing it, and how it will be carried out, monitored, and reported. In 1986, INAC amended its comprehensive land claims policy to include a specific requirement for all subsequent land claim agreements to include such a plan. While the Agreement pre-dates this policy, the Minister of INAC and department officials made a commitment to both the Inuvialuit and to the Treasury Board to develop a plan for

implementing the Agreement. While a plan does not guarantee successful implementation, we expected that INAC would have led the development of a plan for implementing the Agreement, at least one concerning the fulfillment of federal obligations.

3.71 As mentioned above, in the early years of the Agreement, the Department focused on the implementation of 28 priorities for which all parties were responsible. Once many of these priorities had been acted on in the first few years, INAC began focusing less on implementing the Agreement. Instead, its activities became reactive, responding to various concerns expressed by the Inuvialuit.

3.72 In 1986, the Minister signed a separate Implementation Agreement with the Inuvialuit, creating an Implementation Coordinating Committee. This committee met eight times between 1986 and 1988, but ceased to meet thereafter. In the absence of a formal structure to consider implementation issues, some Inuvialuit concerns were escalated to the political level or to an arbitration committee before they were resolved. Other issues were the subject of numerous discussions and remained unresolved throughout a 10-year period.

3.73 In May 1999, a new Implementation Coordinating Committee was established. It has met about twice a year since then, to consider implementation issues and other matters of concern to the Inuvialuit. We found that since 1999, committee members at these meetings have discussed 25 issues, including board member appointments, the need for environmental clean-up of contaminated sites, and federal government procurement. Although action items and updates have resulted from these discussions, most of these issues remain on the agenda.

3.74 We found that INAC has yet to develop a plan for implementing federal obligations under the Agreement. Such a plan could assign timelines, action items, or responsible parties for each federal obligation, as would an implementation plan. Lacking such a plan, INAC has failed to take action as required, such as developing a process for cleaning up and returning Annex R lands to the Inuvialuit (see paragraph 3.29).

3.75 Reporting Progress. We found that INAC does not monitor or report progress against obligations. Since 1988, INAC has published an annual implementation report in response to a Public Accounts Committee recommendation. This report lists activities of federal participants and other signatories in relation to the Agreement.

However, the activities are not described in relation to signatories' obligations. INAC therefore does not report on the extent to which these obligations are being met. Furthermore, at the end of our audit, INAC still had not published any reports for fiscal years 2004–05 or 2005–06.

3.76 Recommendation. Indian and Northern Affairs Canada should develop a strategic approach towards implementing Canada's obligations under the *Inuvialuit Final Agreement*. Such an approach should, at a minimum

- identify each of Canada's obligations and the appropriate federal organizations to address them, and should clearly communicate their obligations to these federal organizations;
- develop a plan to implement federal obligations; and
- regularly monitor and report to other signatories Canada's fulfillment of its obligations.

The Department's response. INAC accepts this recommendation. INAC will develop a strategy to effectively communicate federal obligations to federal organizations, by March 2008. INAC will develop a results-based management framework for the implementation of federal obligations in cooperation with relevant federal institutions, by fall 2008. INAC will also monitor and report on Canada's progress towards the fulfillment of its obligations to other signatories at Inuvialuit Final Agreement Implementation Coordinating Committee meetings.

No monitoring of achievement of the stated goals

3.77 The first section of the Agreement identifies three principles, which are described as the basic goals expressed by the Inuvialuit and recognized by Canada. These goals are

- to preserve Inuvialuit cultural identity and values within a changing Northern society;
- to enable the Inuvialuit to be equal and meaningful participants in the Northern and national economy and society; and
- to protect and preserve Arctic wildlife, environment, and biological productivity.

3.78 These principles are consistent with objectives established in many of the more recent land claim agreements. They are also consistent with INAC's own objectives of ensuring that Aboriginal

people enjoy a quality of life comparable to that of other Canadians, and of supporting Aboriginal people in achieving their social and economic aspirations to develop healthy, sustainable communities. Furthermore, for more than 15 years, the Treasury Board Secretariat has been recommending that federal organizations develop and apply indicators that would inform Parliament and the public about the results of government spending.

3.79 In 1984, when the Agreement was signed, the Government appointed INAC as the lead to coordinate implementation, while other federal organizations were responsible for fulfilling obligations related to their portfolios. As such, we expected that INAC would have coordinated how progress was to be measured and would have ensured the monitoring and reporting of progress towards achieving these principles. This would serve both as a means of identifying whether the Agreement was achieving what it was intended to achieve, and as a means of developing insight into how future land claim agreements should be structured.

3.80 We analyzed INAC's files on the Agreement going back to 1984. We also analyzed files of Fisheries and Oceans Canada, Environment Canada, and the Parks Canada Agency. We interviewed officials and obtained data and other documentation from each of these organizations. We interviewed members of co-management boards and committees related to the Agreement, including representatives of the Government of the Northwest Territories and the Inuvialuit.

3.81 Our 1990 audit of INAC's Northern Affairs Program (1990, Chapter 19—Northern Affairs Program) noted that the Department had not monitored achievement of the Agreement's economic principle. We recommended that the Department develop a framework to evaluate the achievements of any socio-economic measures taken with respect to comprehensive land claim agreements. In 1994, INAC developed an economic evaluation framework designed to monitor the achievement of the Agreement's economic objectives. We found, however, that INAC had not applied this economic evaluation framework (see paragraph 3.49).

3.82 In 2003, we audited the transfer of federal responsibilities to the North (2003, Chapter 8—Indian and Northern Affairs Canada: Transferring Federal Responsibilities to the North). In that audit, we found that in implementing its obligations under the two comprehensive land claim agreements that we examined (Nunavut and Gwich'in), INAC had focused on the letter of its obligations but had not taken into account the spirit and intent of the agreements.

3.83 We found that INAC took a similar position with regard to the principles of the *Inuvialuit Final Agreement*; it has taken no action to develop performance indicators or to ensure measurement of progress toward achievement of the principles that the Agreement embodies. Department officials describe these as being Inuvialuit principles, not principles to which Canada adheres. INAC officials emphasize that the Agreement does not impart any federal obligation to realize these goals. On the contrary, Department officials have expressed reluctance to monitor and report progress towards achieving the principles of the Agreement. They explained that doing so would imply that an obligation exists, where no obligation is written into the Agreement. The Department also expressed concern that monitoring progress may lead to the expectation that it would take responsibility for achieving these principles.

3.84 We are concerned that the Department is not focused on achieving the goals expressed in the Agreement. We are also concerned by the argument presented by Department officials, that there is no obligation in the Agreement that requires them to monitor progress. Their argument implies that the Department is willing to carry out only those activities specifically identified as obligations in the Agreement. We find this approach to be inconsistent with the federal government's emphasis on managing well to achieve better results.

3.85 Recommendation. In cooperation with the Inuvialuit, and with the Yukon and Northwest Territories governments, Indian and Northern Affairs Canada should develop performance indicators to measure progress towards meeting the principles of the *Inuvialuit Final Agreement*, and should publicly monitor and report progress to other signatories.

The Department's response. INAC accepts this recommendation. INAC will propose performance indicators to all signatories at a future Implementation Committee meeting, with a view to monitoring and reporting on progress, beginning in spring 2008.

Conclusion

3.86 The *Inuvialuit Final Agreement* (the Agreement) is one of Canada's first modern-day comprehensive land claim agreements. The Agreement has been in existence for 23 years.

3.87 This audit examined the efforts of federal organizations to fulfill their responsibilities with respect to the *Inuvialuit Final Agreement*. Fulfilling these responsibilities is important, because the Agreement is

constitutionally protected and entails significant obligations for Canada. Furthermore, the extent to which the federal government meets its obligations under this Agreement may affect its credibility in negotiating future agreements with other Aboriginal communities.

3.88 We concluded that Indian and Northern Affairs Canada (INAC) had not met some of its significant obligations and management responsibilities for implementing federal obligations related to the *Inuvialuit Final Agreement*.

3.89 We found that federal organizations had not established the necessary processes to meet significant obligations, and that as a result, some of the obligations had been left unmet. For more than a decade, most federal organizations were largely unaware of their contracting obligations under the Agreement. The five federal organizations that were within the scope of our audit still do not have systematic means of monitoring their contracting activities within the Inuvialuit Settlement Region and thereby ensuring compliance with their obligations under the Agreement. Furthermore, INAC has not developed a process for returning to the Inuvialuit control of lands that belong to them. It has also taken no measures to address issues stemming from a 2001 economic measures review, despite repeated commitments to do so.

3.90 We also found that some obligations are being met. In general, federal organizations committed to wildlife and environmental sustainability have established effective partnerships with the Inuvialuit and have met their environment and wildlife obligations under the Agreement. Federal activities related to co-management boards and committees were appropriate.

3.91 We found that INAC had not established a focused, strategic approach to ensure successful implementation of federal obligations. The Department had not identified and formally communicated federal obligations to other federal organizations, had not developed a plan for implementing federal obligations, and did not monitor or report the extent to which federal obligations were met. We also found that INAC had not identified performance indicators or monitored progress towards the achievement of the principles of the Agreement.

3.92 Overall, we concluded that although the *Inuvialuit Final Agreement* has existed for 23 years, INAC has yet to demonstrate the leadership and the commitment necessary to meet federal obligations and achieve the objectives of the Agreement.

About the Audit

Objectives

Our objectives for the audit were

- to determine whether or not Indian and Northern Affairs Canada (INAC) has adopted appropriate management systems and procedures to successfully implement federal obligations within the *Inuvialuit Final Agreement* (the Agreement);
- to determine whether INAC has monitored its implementation of these obligations;
- to determine whether or not federal organizations have met specific obligations under the Agreement;
- to determine whether or not INAC has identified performance indicators; and
- to determine whether INAC has monitored and reported progress towards achieving the Agreement's principles.

Scope and approach

The audit focused predominantly on Indian and Northern Affairs Canada because of its role as the lead organization responsible for implementing federal obligations of the Agreement. We also examined specific activities of Environment Canada, Fisheries and Oceans Canada, and the Parks Canada Agency, because these organizations were charged with various implementation responsibilities. Public Works and Government Services Canada was also included in the scope of our audit with respect to federal contracting provisions in the Agreement.

The Government of the Northwest Territories, the Yukon Territorial Government, and Inuvialuit-based organizations were not included in the scope of the audit.

Our work included 19 audit tests organized along three broad lines of enquiry that address the five objectives of the audit. These tests entailed examining actions taken on 29 federal obligations that we judged to be significant in fulfilling Canada's overall obligations under the Agreement. Our audit work also included examining INAC's strategy for implementing the Agreement and examining how INAC measured whether progress was made toward achieving the Agreement's principles.

To complete this work, we reviewed files at INAC and Public Works, as well as numerous documents from all organizations we audited. We interviewed officials from headquarters and the relevant regional offices of all five federal organizations.

Members of the audit team interviewed Inuvialuit representatives and visited most of the Inuvialuit Settlement Region's communities. We also interviewed officials from the Government of the Northwest Territories, to obtain their perspectives as signatories to the Agreement.

Criteria

We expected each federal organization to have identified, planned how it would fulfill, and acted on its obligations as stated within the *Inuvialuit Final Agreement* (the Agreement). We expected Indian and Northern Affairs Canada to have

- monitored progress towards the implementation of federal obligations within the Agreement;
- developed or adopted measures for monitoring progress towards achieving the Agreement's principles, in consultation with other signatories; and
- monitored and reported progress towards achieving the principles of the Agreement.

All federal organizations audited agreed with these criteria.

Audit work completed

Audit work for this chapter was substantially completed on 1 May 2007.

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Appendix List of recommendations

The following is a list of recommendations found in Chapter 3. The number in front of the recommendation indicates the paragraph where it appears in the chapter. The numbers in parentheses indicate the paragraphs where the topic is discussed.

Recommendation	Response
Meeting Federal Obligations	
<p>3.30 Indian and Northern Affairs Canada should develop and implement clear processes for</p> <ul style="list-style-type: none"> • ensuring the timely exchange of lands under the <i>Inuvialuit Final Agreement</i>, and • cleaning up and returning control of parcels of land identified in Annex R that are no longer required by the federal government. <p>(3.15–3.29)</p>	<p>INAC accepts this recommendation.</p> <ul style="list-style-type: none"> • With respect to land exchanges, INAC will document the processes outlined in the <i>Inuvialuit Final Agreement</i> for use in future land exchanges; guidelines will be recommended for each step in the process to ensure timeliness by April 1, 2009. • With respect to Annex R lands, INAC will review the process for cleaning up and returning control of parcels of land identified in Annex R and will make changes to improve its efficacy by April 1, 2008, drawing on the results of the removal of the encumbrance against title on Kittigazuit Bay, already under way.
<p>3.45 Indian and Northern Affairs Canada should clearly communicate to federal organizations the Government of Canada’s contracting obligations in relation to the <i>Inuvialuit Final Agreement</i>. In addition, INAC should define the Agreement’s term “reasonable share.” It should also provide guidance to federal organizations as to how to fulfill their contract obligations to award to the Inuvialuit a reasonable share of non-competitively tendered contracts that are related to the Region. (3.31–3.44)</p>	<p>INAC accepts this recommendation. The Department will complete its work with Public Works, Treasury Board Secretariat, and the Canada School of Public Service on the development of a Comprehensive Land Claim Agreement training module for all federal procurement officers by March 2008. INAC will also take a leadership role in working with signatories and the Department of Justice to define “reasonable share” by December 2007, and will share this definition with federal organizations in order that they may be guided in their fulfillment of obligations relating to federal procurement.</p>

Recommendation	Response
<p>3.46 In consultation with the Treasury Board Secretariat, Indian and Northern Affairs Canada, Public Works and Government Services Canada, the Parks Canada Agency, Fisheries and Oceans Canada, and Environment Canada should develop and/or enhance systems and procedures to enable them to monitor their compliance with the <i>Inuvialuit Final Agreement's</i> contracting provisions. To ensure compliance, these systems and procedures should monitor each federal organization's activities for</p> <ul style="list-style-type: none"> • notifying the Inuvialuit of contracts related to activities within the Region; • awarding the Inuvialuit all contracts that are subject to public tender and related to activities within the Region, when the Inuvialuit submit the best bid; • awarding the Inuvialuit a reasonable share of contracts that are not subject to public tender, that are related to activities within the Region, and for which the Inuvialuit are capable of supplying the required goods and services on a reasonable basis; and • providing the Inuvialuit with contracts that relate to activities within the Region's national parks and landmark, on a preferred basis. (3.31–3.44) 	<p>Agreed. Indian and Northern Affairs Canada, in consultation with Treasury Board Secretariat and Public Works and Government Services Canada, will provide guidance to departments on the appropriate level of monitoring required to ensure compliance with this Agreement's and similar agreements' contracting provisions, as reflected in Treasury Board policy requirements.</p> <p>It is important to note that an interdepartmental working group has been established by Treasury Board Secretariat for the development of an amendment to the Treasury Board Contracting Policy, which will update the process for government procurement in the context of comprehensive land claims agreements. The amendment will clarify departmental responsibilities for monitoring and reporting requirements of Crown procurements undertaken in regions covered by comprehensive land claims agreements, including the <i>Inuvialuit Final Agreement</i>.</p> <p>It should be noted that departments do have systems to monitor compliance with the specific provisions of their contracts and that they recognize the need to monitor contract obligations relating to the agreements. To this end, Indian and Northern Affairs Canada, Public Works and Government Services Canada, the Parks Canada Agency, Fisheries and Oceans Canada, and Environment Canada will take measures to develop or strengthen, where necessary, systems and procedures to meet any new monitoring and reporting requirements that may be established by the Treasury Board within a year of their introduction.</p> <p>In addition, the five audited departments will give full consideration to this recommendation as they review and, where necessary, enhance current systems and procedures to monitor the awarding of contracts to the Inuvialuit that are not subject to public tender, when they are capable of supplying the goods and services on a reasonable basis. Work on processes governing federal procurement to include provisions for contracting in national parks is already under way, and will be developed to capture the same information for other comprehensive land claims agreements.</p> <p>This recommendation will be acted on by March 2009.</p>

Recommendation	Response
<p>3.53 Indian and Northern Affairs Canada should meet its responsibilities related to the economic review by</p> <ul style="list-style-type: none"> • assessing reasons for lack of progress identified in the first review; • taking actions to respond to the first review; and • leading the completion of a joint economic measures review every five years until such time as the economic objectives have been met, as required in the <i>Inuvialuit Final Agreement</i>. (3.47–3.52) 	<p>INAC accepts this recommendation. An economic measures working group was established in February 2007. INAC will, through this working group, conduct assessments of community capacity and economic opportunities and assess reasons for the lack of progress by March 2009. Current plans call for the completion of the second five-year economic measures review in 2010.</p>
<p>Federal Implementation of the Agreement</p>	
<p>3.76 Indian and Northern Affairs Canada should develop a strategic approach towards implementing Canada’s obligations under the <i>Inuvialuit Final Agreement</i>. Such an approach should, at a minimum</p> <ul style="list-style-type: none"> • identify each of Canada’s obligations and the appropriate federal organizations to address them, and should clearly communicate their obligations to these federal organizations; • develop a plan to implement federal obligations; and • regularly monitor and report to other signatories Canada’s fulfillment of its obligations. (3.65–3.75) 	<p>INAC accepts this recommendation. INAC will develop a strategy to effectively communicate federal obligations to federal organizations, by March 2008. INAC will develop a results-based management framework for the implementation of federal obligations in cooperation with relevant federal institutions, by fall 2008. INAC will also monitor and report on Canada’s progress towards the fulfillment of its obligations to other signatories at Inuvialuit Final Agreement Implementation Coordinating Committee meetings.</p>

Recommendation	Response
<p>3.85 In cooperation with the Inuvialuit, and with the Yukon and Northwest Territories governments, Indian and Northern Affairs Canada should develop performance indicators to measure progress towards meeting the principles of the <i>Inuvialuit Final Agreement</i>, and should publicly monitor and report progress to other signatories. (3.77–3.84)</p>	<p>INAC accepts this recommendation. INAC will propose performance indicators to all signatories at a future Implementation Committee meeting, with a view to monitoring and reporting on progress, beginning in spring 2008.</p>

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