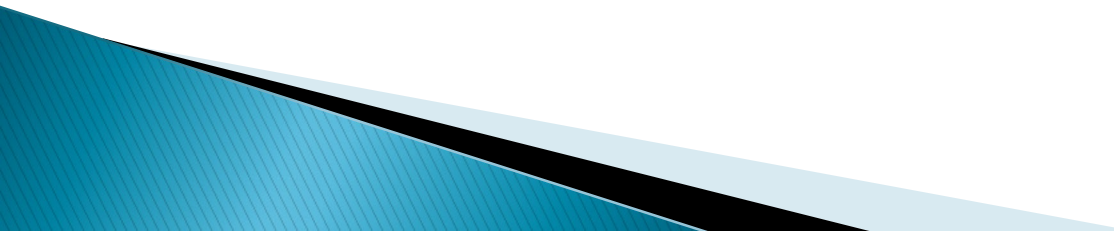


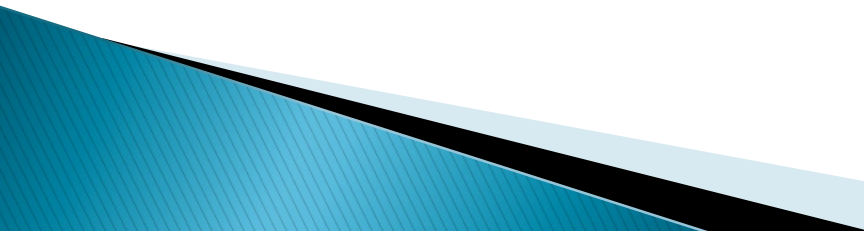
INUIT IMPACT & BENEFIT AGREEMENTS

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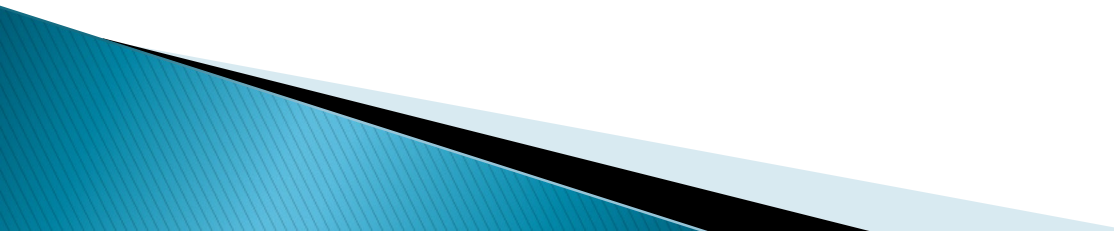


- The use and occupation of lands within traditional territories is disrupted by activities such as development projects and the establishment of parks.
 - Modern land claims and self government agreements may provide constitutional protection for the right of the affected Aboriginal group(s) to negotiate an agreement which will provide benefits to the affected group(s), and measures to reduce or mitigate impacts.
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NUNAVUT AGREEMENT IIBAs

- Under the Nunavut Land Claims Agreement (the Nunavut Agreement), IIBAs may include any matter that could have a detrimental impact or reasonably confer a benefit on Inuit.
 - IIBAs are designed to promote Inuit cultural goals, achieve and maintain a standard of living equal to other Inuit and Canadians generally.
 - Benefits must be related to the nature, scale and cost of the project and its direct and indirect impacts on Inuit.
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- An IIBA is required for a major development project (as defined) on Inuit Owned Lands (IOLs) that could:
 - have a detrimental impact on Inuit; or
 - reasonably confer a benefit on Inuit, on a Nunavut Settlement Area-wide, regional or local basis.

 - Schedule 26-1 of the Nunavut Agreement details matters appropriate for Inuit benefits.
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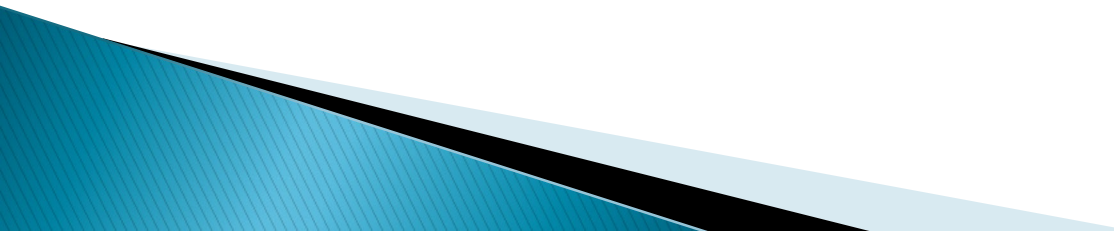
"Major Development Project"

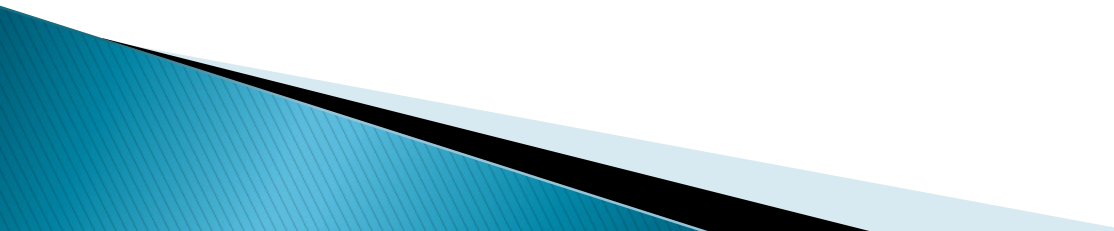
- includes any Crown corporation or private sector project that:
 - is a water power generation or water exploitation project; or
 - involves development or exploitation (not exploration) of resources under IOL's; and
 - during any five-year period, involves more than 200 person years of employment, or capital costs in excess of \$35,000,000 (1986 dollars).

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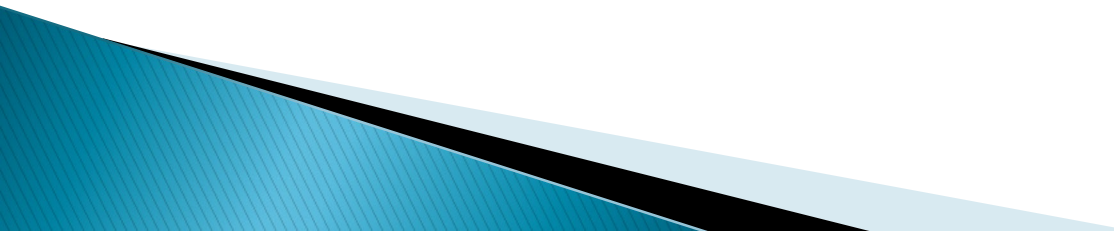


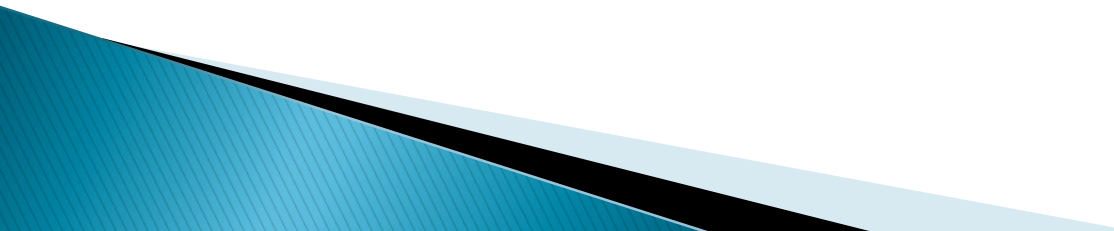
- Parties should consider level of complexity and detail required:
 - general, principle-based
or
 - specific, detailed

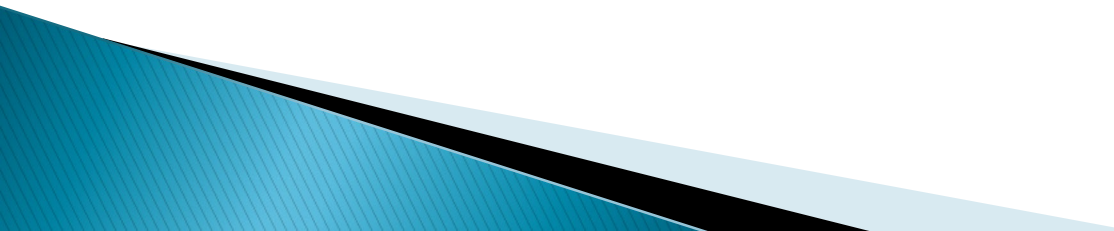
 - Approach may depend in part on the experience and competency of those tasked with implementation, and the ability of the parties to work together to common goals.
- 

- Is duplication of government obligations desirable?
 - Examples: Protection of archeological sites; protection of wildlife.
 - Consider:
 - creates a direct relationship and could be a valuable enforcement tool;
 - may provide confidence to affected individuals;
 - could be problematic – may create a two-level “penalty” system.
- 

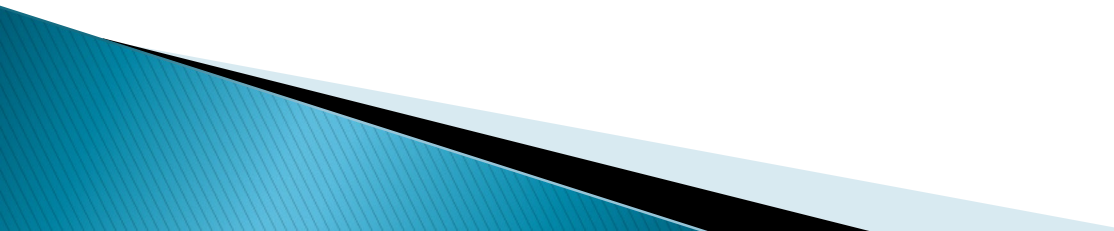
MATTERS TO CONSIDER

- Inuit training, preferential hiring, employment rotation, scholarships
 - Labour relations, business opportunities
 - Housing, recreation
 - Safety, health, language
- 

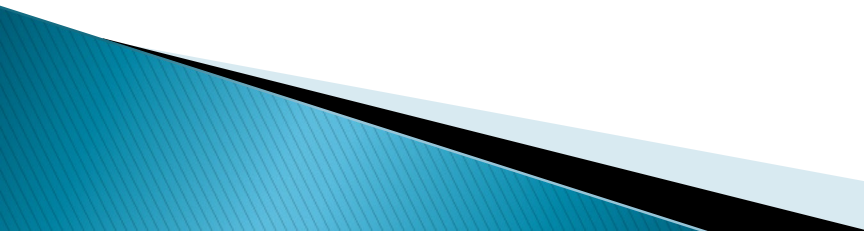
- Research and development
 - Access to project facilities
 - Environmental concerns such as disruption to wildlife, outpost camps
 - Information flow, liaison between Inuit and proponent
 - Other IIBAs and developments, implementation and enforceability including performance bonds and liquidated damages
- 

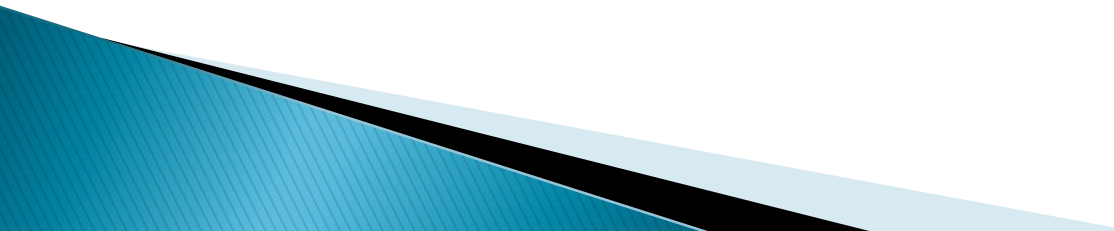
- Conflicts or duplication with Government responsibilities (i.e. housing, schools, medical facilities)
 - Community needs (roads, water treatment, etc.)
 - Impacts on local residents of influx of “southerners” (transport/remaining in communities)
 - NIRB socio economic considerations
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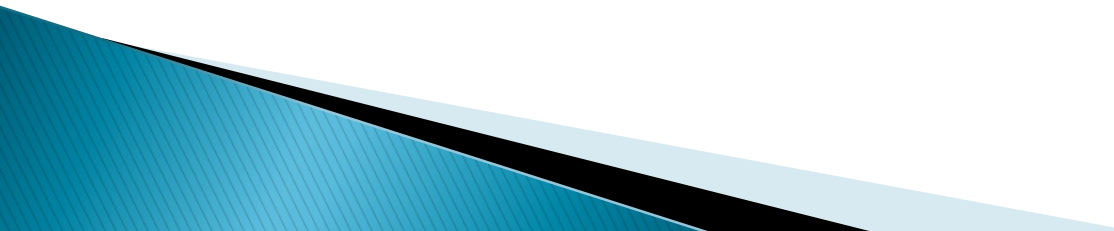
FINANCIAL FORMULAS

- Vary according to the type of project; size; length of project, financing needs and restrictions
 - Could include equity portion
 - Consider ease/difficulty in monitoring and accounting
 - Is a trust desirable?
- 


TYPICAL IIBA PROVISIONS

- **IMPLEMENTATION** – through implementation officers, co-ordinators, committees – key to making it work
 - **EMPLOYMENT** – preferential hiring, points of hire, employment targets/goals, language, schedules, employment supports, counselling
 - **CONTRACTING** – preferential contracting & processes for ensuring local businesses have a fair opportunity to participate
- 

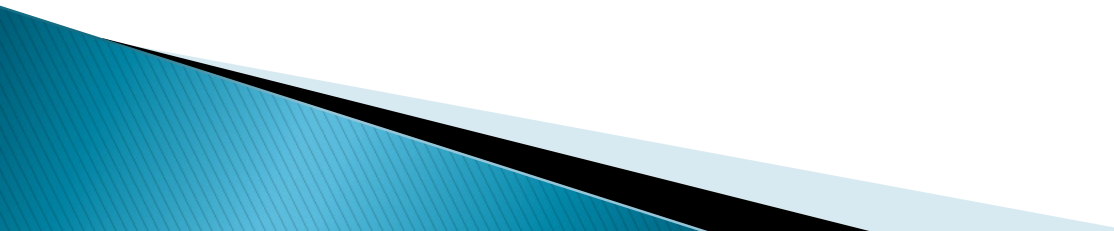
- **ACCESS TO FACILITIES** – access to the Project site; access to roads and other facilities
 - **RESEARCH & DEVELOPMENT** – opportunities to participate in research activities, use of local knowledge, potential revenue
 - **ACQUISITION OF ASSETS** – option to acquire project facilities no longer needed by the developer
 - **FUNDING & IMPLEMENTATION COSTS** – costs of negotiation, implementing the IIBA
- 

- WILDLIFE – compensation, reporting, wildlife management and conservation measures
 - ECONOMIC, SOCIAL AND CULTURAL WELLNESS – monitoring and mitigating adverse effects of the project and its closure, enhance long-term prosperity
 - DISPUTE RESOLUTION – processes for resolving disputes
 - RENEGOTIATION – periodic review & amendment if necessary
- 

ISSUES FOR NEGOTIATIONS

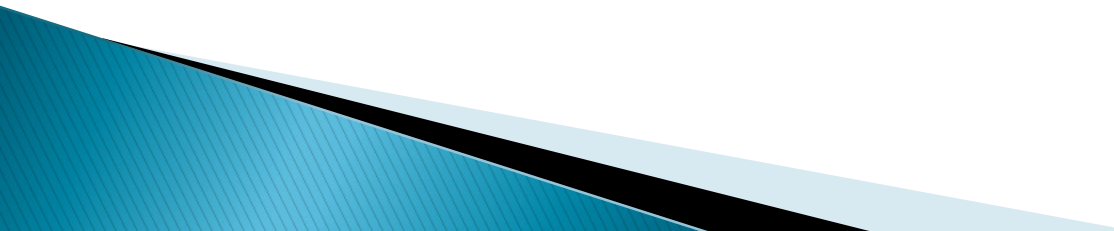
- Finding the balance: project profitability vs benefits
 - Community infrastructure support
 - Timing – when to negotiate?
 - Confidentiality – developer’s project details; IIBA provisions (particularly financial)
 - Implementation and monitoring, costs; number, type, composition of committees
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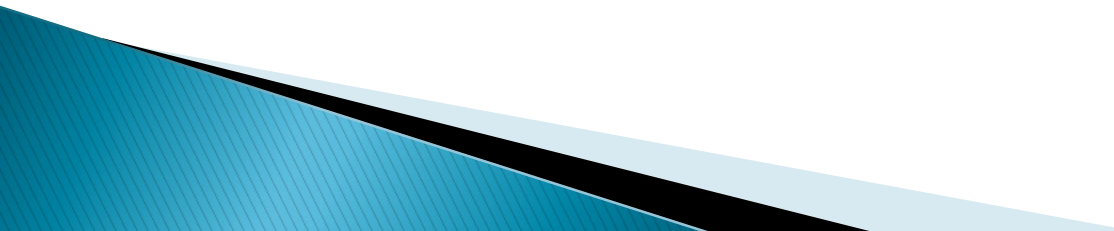
OTHER CONSIDERATIONS

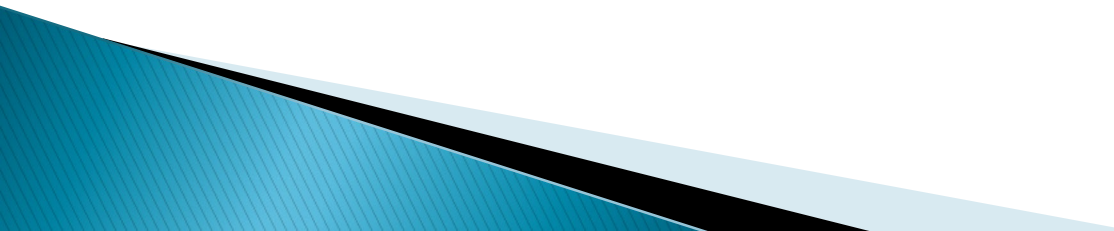
- Leases, licenses and permits – particularly in the pre-development stage – should include socio economic provisions.
 - BUT, which IIBA requirements ought to apply? balance between ensuring Inuit benefit and avoiding outside contractors getting an early advantage vs overloading minor operations.
 - Potential for project expansion – the IIBA should be flexible enough to cover future operations.
- 

- Enforcement – Nunavut Agreement: An IIBA may be enforced in accordance with the law of contract. The parties may negotiate liquidated damages for default and such a clause shall not constitute a penalty. In any deliberation as to specific performance, due regard shall be given at all times to the desirability of protecting Inuit lifestyle and culture and providing Inuit with opportunities for economic advancement.


- Dispute resolution: what to do when implementation doesn't go well
 - at the committee and/or internal levels
 - formal DR process

 - Default – cross-defaults (i.e. leases)
- 

- Project can't commence until IIBA is finalized (subject to possible early start-up provisions or national/military emergencies).
 - Takes effect within 30 days of receipt by Minister unless Minister determines otherwise.
- 

- If not successfully negotiated, there can be either voluntary or compulsory arbitration.
 - The Minister may appoint an arbitrator.
 - The arbitration must include the full range of IIBA benefits, unless the parties agree otherwise.
- 

PARK IIBAs

- An IIBA is required prior to establishing a national or territorial park or a conservation area in Nunavut if there will be a detrimental impact or it could reasonably confer a benefit.
 - Must include any matter that would have a detrimental impact or could reasonably confer a benefit on a Nunavut-wide, regional or local basis, including cooperative management, continuation of Inuit harvesting rights, Inuit employment and economic benefits.
 - Schedule 8-3 of the Nunavut Agreement details matters appropriate for these IIBAs.
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- Ensure park management respects and reflects Inuit rights, continued use of the park & natural resources.
 - Framework for co-operative park management and planning.
 - Deal with park boundaries, access for mineral development, wildlife, carving stone, outpost camps, emergency polar bear kills, historical and archeological resources, research, careers and training, economic opportunities & benefits.
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