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Chair

The Honourable MaryAnn Mihychuk

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• (0805)

[English]

The Chair (Hon. MaryAnn Mihychuk (Kildonan—St. Paul, Lib.)): Good morning, everybody. I'll call the meeting to order. We have many people who we are hearing from today, so I don't want to waste any time.

We've been generously offered a prayer to start our hearings, a traditional practice for many indigenous peoples, and we want to respect and honour those traditions. Chief Sam Gargan is willing to lead us through the prayer, and I'm very grateful.

I invite you to do that.

Mr. Sam Gargan (Sub-Chief and Mayor of Fort Providence, Deh Gah Got'ie First Nations): Creator and Father, we thank you for this day. As we acknowledge gratitude for the circle of life and for all creation, we ask that you bless the company gathered here today. Light for us a path that leads to harmony and balance amongst all your children.

We humbly seek your guidance and strength. With each new day, instill in us wisdom to use the gift of life for the good of all. May the fruits of our deliberation form a visible outcome in the world community. We ask that you give us the skills to build bridges in the spirit of co-operation. May we be worthy as stewards of this land to be blessed with your guidance and to serve those yet to come.

Creator and Father, we thank you for our children, our parents, and our elders. Protect those out on the land and those out in the workplace, and as we move forward, we ask that you weave into our lives a solidarity of purpose for the whole of your family.

Mahsi.

The Chair: *Meegwetch.*

In Canada, we have a visionary Prime Minister, in my opinion, who has decided to move Canada on a process of truth and reconciliation, and it's important, especially for this committee, to have, instead of the rote recognition, a recognition of the lands we're on here, those of the Dene and the Métis peoples of N.W.T., with their long history. We're grateful for the invitation and for the ability to meet with you to discuss the important issues of land claims, both specific and comprehensive.

This is our final journey of a cross-country tour. We were in Vancouver with the Tsawwassen, in Winnipeg with the Métis and the first nations, in Ontario with the Mohawks, and in Quebec. This is our final stop, after an invitation from MP Michael McLeod, who

was a member of our committee but has left for the more mundane business of finance. We miss him, and we are very grateful to be here.

Pursuant to Standing Order 108(2), we are conducting a study on specific claims and comprehensive land claims agreements.

The way it works is that you're on our first panel and you'll have 10 minutes to present. You're not required to use all of that, but I will start to give you signals and be more difficult as we get closer to 10 minutes. Then, after all the presenters have completed, we have an opportunity for questions, and that will fill the whole hour.

I understand that we are going to start first with the mayor of Fort Providence, Sub-Chief Sam Gargan.

Mr. Sam Gargan: Thank you, Madam Chair. I welcome you to Yellowknife, committee members.

I will begin. I'd like to table some documents with you, Madam Chair.

I've worked with Dene Nation for many years. One of the things we've developed is called "On the art of stealing human rights". It's a document that we use when dealing with governments in terms of how we ourselves are contributors to our own demise at times.

The second document is called "Dene Principles & Values". That was developed in 1987 by a bunch of elders, based on the Dene document "A Proposal for Public Government".

The third one is a document from the Keepers of the Water declaration done in 2004 and called "One Land, One People".

The final document is the Dehcho first nations resource protocol on cultural appropriation, the "Decho Traditional Knowledge Protocol". That document itself is based on intellectual property and how traditional knowledge can be shared but not used as a transferable document.

For example, in 2000 the Mackenzie gas pipeline process started, with 10 years spent on that process, so for 10 years we also shared a lot of traditional knowledge, and traditional knowledge in regard to the pipeline itself, the Norman Wells pipeline. A lot of the presentations were based on experience from other industrial development. We also have a draft of what we call an "industrial development protocol".

Madam Chair, these are the documents I want to table with you.

When I was growing up, Madam Chair, my mother told me a story when I was seven years old that sort of set my path. My mother was unilingual. She never spoke a word of English. I guess this vision out there in the bush was that a sea change was coming, and it prepared me for that change. I was also told in this vision that there would be some areas in which I would take a leadership role. It wasn't so much what she said that made me choose that path; it was the path that chose where I was going, so 50 years later.... I've been in politics for about 50 years now.

Decentralization started happening back in the fifties; that was at the time that aboriginal people were allowed to consume alcohol also. There was also relocation being done, and there was hardship for the people being relocated. Grise Fiord was one relocation, and Resolute Bay was the other one.

In the sixties, the term “northerner” started to be used a lot, and in 1969, the white paper occurred. The 1969 white paper was driven to make all aboriginal people the same as every other Canadian, and that was the beginning of the native struggle. The native people stood up and said, no, that they had a unique relationship with Canada, that Canada was their homeland, and that their way of life was being threatened and they were losing their language and culture. That started happening, and in 1983 a report came out called “Learning: Tradition and Change”.

● (0810)

That report itself was from a standing committee of the Legislative Assembly going all over the north and hearing from the communities that we needed an aboriginal institution to deliver language, culture, and a way of life. The report itself, “Tradition and Change”, did not say that. It said that aboriginal language and culture should be learned, should be taught in the schools. I want to add that the language, the culture, and the way of life do not belong in a white institution.

You only have to learn from the French people. They have their own institutions. We're still made to fit in. That's where it started: in 1969, with the white paper. Although it got rejected, I think that same principle from the white paper was transferred to the north. The term “northerner” started being used a lot, and the aboriginal people were just a part of that melting pot.

I had a chance to travel the river this summer for one month with Dechinta university. In that travel, we had a lot of people from other parts of the country, and we had a lot of people from the north as well. One thing we started teaching them was “thinking to learn” and “learning to think”, two very different concepts that derive from the white culture and the aboriginal culture.

The elders will tell you that all first nations are self-reliant. Now, a lot of our people are not employed, and you will find a disturbing trend in the north about the employment of aboriginal people and the reason why a lot of them are not employable: because of criminal records. But a lot of them also live off the land. That's where their income comes from; they're self-reliant and they have self-determination. Therefore, self-government comes from the two: self-reliance and self-determination. The elders are also saying that.

In our travels down to Fort Good Hope this summer, I got as far as Fort Simpson. It took us a month to get to Fort Simpson from Fort

Providence, and we thought a lot about how people lived off the land, and not just in terms of surviving, because it's a way of life for us. It's our home. It doesn't matter where we are, we are not lost.

We have two orders that we live by. The natural order is sunlight, daylight. It gets dark and you go to sleep; when there's light, you get up. There are also the seasons. The seasons develop our culture and our way of life to them. We have spring hunts, summer gatherings, fall hunting seasons, and winter trapping. Those are all parts of our way of doing things. That's based on the natural order.

We also have the learning to think kind of thing in the aboriginal culture. You learn in stages, not in steps. You're born, you sit up, you crawl, you stand up, you walk, and you talk. Then gender comes into being at a later stage, as opposed to one to 12 or an entrance level to doctrines and all that stuff. That's the way we develop ourselves.

As a member of the Legislative Assembly, I found myself fitting in a lot of times. Most aboriginal people in the communities have three orders of government in our own community: the municipality or the hamlet, the band, and the Métis Nation—three governments. You really don't need that, but that's what we have right now.

● (0815)

I still have a lot to say, but....

The Chair: You might be able to get it out in the question period.

● (0820)

Mr. Sam Gargan: Yes. Okay.

Anyway, in the last 50 years, I've been trying to separate the aboriginal culture from the white culture. We need to have our own institutions. I know that the terms “amalgamate” and “incorporate” are used; that language is in a lot of the government-driven policies. That in itself, we can say, is assimilation.

The government wrote to me in 2006 about amalgamating the environmental impact review board and traditional knowledge. I took the view that, no, we cannot do that. You cannot integrate traditional knowledge into government programs. It will not work. Why? If you do it for the environmental assessment, then traditional knowledge is used to facilitate development.

The Chair: Thank you, but I'm sorry, I'm going to have to.... With respect, we have two other presenters.

Please watch the time. I'll be as generous as possible. I'm trying to keep the process moving.

MP McLeod.

Mrs. Cathy McLeod (Kamloops—Thompson—Cariboo, CPC): Madam Chair, being as our NDP colleague is missing and he would normally have seven minutes for questions, if each presenter has an extra two or three minutes, I think that would be.... Not in this case, I know, but for the future, perhaps that would make some sense to our panel, because certainly the comments are very important.

The Chair: In this case, we went for 12 minutes, so I tried to be generous. With respect, will have more time for question period as well.

We are pleased to have with us the North Slave Métis Alliance. They're headline makers.

Voices: Oh, oh!

The Chair: We have with us Bill Enge, president, and Christopher Devlin.

Please go ahead.

Mr. Bill Enge (President, North Slave Métis Alliance): Thank you, Madam Chair.

As you've heard, my name is Bill Enge. I'm the president of the North Slave Métis Alliance. I have been the president of the North Slave Métis Alliance for 14 consecutive years now.

Since I am in the political business, I thought I'd let you know it's been a very hectic week and a good one for the North Slave Métis Alliance. Not only did we just win the biggest lawsuit in the history of our organization in the Federal Court of Canada on Thursday—you'll hear more about it in my presentation—but, fortunately for me, I just got re-elected to a four-year term of office on Monday. It is a good week for the North Slave Métis Alliance and my board of directors.

Welcome, panel members and committee members, to the traditional lands of the Yellowknife and the North Slave Métis Alliance and the North Slave Métis people.

The North Slave Métis Alliance appreciates the opportunity to provide its views to the Standing Committee on Indigenous and Northern Affairs in support of its review of specific claims and comprehensive land claims in Canada, particularly the current process under way in the Northwest Territories.

The North Slave Métis Alliance is the only indigenous group in the Northwest Territories that has obtained judicial recognition of its members' common law aboriginal rights as Métis people. This has been established both in the 2013 Northwest Territories Supreme Court decision in *Enge v. Mandeville* and in last week's Federal Court of Canada decision in *Enge v. Canada*.

In the words of the Federal Court:

...the NSMA is a credible organization that has existed for many years, advocating for the rights of the Métis of the north Slave region. The NSMA further represents a sizeable and identifiable constituency within the Métis community of the Northwest Territories, one with concerns and priorities that differ from those of the NWTMN.

Yet paradoxically, the federal government has refused to negotiate with the North Slave Métis Alliance because of outdated land claim policies and models.

Why is this? The North Slave Métis Alliance submits that the status quo of Canada's regional negotiation policy and balkanization of the indigenous communities into artificial regional groupings in the south Mackenzie Valley has simply not worked.

Canada's regional approach is the fundamental obstacle to concluding modern comprehensive land claim agreements in the Northwest Territories. Canada's policy approach to negotiations ignores the law, especially section 35 of the Constitution Act, 1982. Canada's current negotiations policy does not pave the way to

reconciliation, which is, as I understand it, one of the major goals of this Liberal government.

Two recent reviews of Canada's negotiation policies in the Northwest Territories support the NSMA's position: the report of Tom Isaac, ministerial special representative, and the decision of Madam Justice Mactavish of the Federal Court of Canada in *Enge v. Canada*.

In June 2016, the Governments of Canada and the Northwest Territories jointly appointed Tom Isaac as a minister's special representative and mandated him to examine existing processes and report on possible amended or alternative processes that could successfully conclude outstanding claims in the area. Mr. Isaac delivered his report to the two ministers on March 3, 2017.

The Isaac report concluded: one, the federal mandates in the Northwest Territories show little regard for significant changes in the law regarding section 35; two, the legal and political landscape in aboriginal law has changed significantly since 1990, with the Supreme Court of Canada handing down nearly 60 decisions on the meaning of section 35; and, three, Canada's rigid reliance on a policy approach formulated in 1990 is not compatible with the unresolved interests in the southeast Northwest Territories.

Last week, on October 19, 2017, the Federal Court of Canada delivered its decision in *Enge v. Canada*. Imagine: that's just a few days ago. The court held that North Slave Métis Alliance members were not adequately consulted by Canada respecting the Northwest Territory Métis Nation Land and Resources Agreement-in-Principle signed on July 31, 2015.

● (0825)

The Federal Court held that Canada had “misapprehended the severity of the potential impact” that the Northwest Territory Métis Nation land and resources agreement “would have on the Aboriginal rights of the [North Slave Métis Alliance]'s members”. The court concluded that Canada “entered into its consultation with the [North Slave Métis Alliance] based on a fundamental misconception of the nature and scope of its duty to consult and could not properly assess what, if any, accommodation measures would be appropriate”.

The court ordered Canada to engage in meaningful consultation and appropriate accommodation with the NSMA and not to conclude a Northwest Territory Métis Nation final agreement until that had occurred. The court made such an important decision for several reasons.

One, although the Northwest Territory Métis Nation agreement in principle is styled as the Métis land and resources agreement, it is based on Dene ancestry rather than Métis ethnicity, or the application of criteria set out in the Powley test.

The Northwest Territory Métis Nation lands and resources agreement will extinguish aboriginal rights exercisable on the north side of Great Slave Lake, which is where we are now, for all those “eligible to be enrolled”, including those members of the North Slave Métis Alliance with Dene ancestors from the South Slave region, even though—and this is important—North Slave Métis Alliance members are ethnically Métis and the North Slave Métis Alliance has never been invited to the Northwest Territory Métis Nation negotiation table.

The wording of the Northwest Territory Métis Nation Agreement-in-Principle non-derogation clause and enrolment provisions pre-exist the enactment of section 35 of the Constitution Act, 1982. Imagine that: they were operating on things that came even before the Constitution of Canada was brought to this country. Canada has never required the Northwest Territory Métis Nation to submit a proof of claim pursuant to the Baker Lake test, something Canada's policy has required for almost 25 years before negotiations occur.

Canada has never asked the Northwest Territory Métis Nation to validate or prove the people it claims to represent, i.e., it never has required them to produce a membership list, relying instead on estimates of who might be eligible to be enrolled under the final agreement.

Because the Northwest Territory Métis Nation refused to disclose membership information, the Federal Court drew an adverse inference that such disclosure would not support the Northwest Territory Métis Nation's claim to be the only organization entitled to represent the aboriginal interests of the Métis people of the Great Slave Lake area, of which the North Slave Métis are part.

Canada admitted that the crown's intention in signing the agreement in principle was to affect the aboriginal rights of all those eligible to be enrolled, whether or not they actually enrol, and then refused the North Slave Métis Alliance's two accommodation proposals that we put to them during the so-called consultation period.

The intentional extinguishment by Canada of the very aboriginal rights for which the North Slave Lake Métis Alliance has obtained judicial recognition on a prima facie basis—which is what a judicial review requires for the threshold for the court to agree that a wrong has been committed against an applicant—and without any negotiation with NSMA members, is not a step towards reconciliation with any aboriginal group.

More egregiously, Canada ignored the Powley test, although federal negotiators were aware that Powley had become the law of the land regarding how Métis held their aboriginal rights in this country.

It was not honourable conduct by the crown to disregard the rights of Métis with such indifference, considering the significant potential adverse effect of aboriginal harvesting rights on the Métis people of the North Slave area. The court was also clear that Canada cannot choose which Métis organization will represent the Métis collective when there are multiple constituencies represented within that collective. Canada cannot play favourites. At least with respect to the North Slave Métis Alliance, Canada's approach “lacks...justification, transparency and intelligibility”, which is a direct quote from the judge's decision.

●(0830)

As to the way forward in the Northwest Territories, given the report of the minister's special representative and the recent decision of the Federal Court, it is clear that the path forward to overcome obstacles to achieving lasting settlements in the southeast Northwest Territories is according to the framework of section 35 of Constitution Act, 1982, as recommended in Mr. Isaac's report, and as applied by the Federal Court in *Enge v. Canada*, namely, by

focusing on core principles, such as: moving away from the failed 1990 Dene-Métis agreement as the framework for negotiations, and instead using section 35 for the framework, including its objective of reconciliation and the principle of the honour of the crown; two, respecting other section 35 interests and rights and recognizing that section 35 rights need not be exclusive in nature, thus showing a path forward to address the tricky issue of overlapping claims to the same geographic areas in the north; and, three, being flexible and not unreasonably rigid in mandate or negotiation positions.

The North Slave Métis Alliance recommends that the committee encourage Canada to implement the direction given by the Federal Court in *Enge v. Canada*, and the guidance of the Isaac report's recommendations, to use the principles of reconciliation inherent in section 35 and the honour of the crown as the new framework to settle comprehensive land claims in the southeast Northwest Territories.

Once again, the North Slave Métis Alliance would like to express its appreciation for the opportunity to present these submissions. The North Slave Métis Alliance is grateful for the committee's attention to this important matter.

Thank you.

The Chair: Thank you.

Our other presenters on the list are not here, unless somebody else is representing Bill Erasmus...?

Then we're going to go on to the question period, where we'll have more opportunities for you to elaborate on your presentations and MPs will have questions. Each MP will have a seven-minute round, and then we'll move to another member.

We'll start with MP Michael McLeod.

Mr. Michael McLeod (Northwest Territories, Lib.): Thank you, Madam Chair, and thank you to both the North Slave Métis and Sub-Chief Sam Gargan.

I know that both of you have a long history in this whole area of trying to resolve the issue of land tenure and governance. You've certainly been up against a lot of challenges. I want to scratch the surface on something you said, Bill, about the land claim policies and models being outdated, which I know has been a real frustration for your organization, but given your experience, I'm going to ask both of you if you could talk a bit about how we can make the changes. What needs to be changed? Do we need to scrap the mandate? Do we need to change policies?

In your case, Sam, I know that the Dehcho first nations had, for the longest time, the Dehcho proposal, which was a model that was totally different from what they've ended up embarking on, which is pretty much the comprehensive claims policy. I hear all the time that people are not satisfied, but that's where they wanted to go.

Maybe I'll give you guys some opportunity to share the time and talk to us. Tell us what needs to be changed. Do we need to throw the comprehensive claims policy out the window? Do we need to throw government policy out the window? Do we need to allow claims to be negotiated in isolation based on what you need in order to provide governance and management for your membership? Give us an idea of what your vision is, what you're working towards.

We can start with you, Bill, but don't take all the time.

Voices: Oh, oh!

• (0835)

Mr. Bill Enge: Thank you, Madam Chairman, and thank you very much, Mike. I appreciate that.

Indeed, what I'm recommending in order to get the North Slave Métis Alliance to the land claim table is that, first of all, there has to be a recognition by the crown that the North Slave Métis people exist on the north side of Great Slave Lake, with aboriginal rights. It's ludicrous that the North Slave Métis people have to keep going back to court against the crown to get the crown to recognize that we have section 35 aboriginal rights to begin with, and that we have a right to be here on our homeland on the north side of Great Slave Lake. Let's start there.

The first thing we want INAC to do is to stop trying to oppress and remove our section 35 rights from us. When we can get past that, the second thing we want is to have INAC respect the fact that the North Slave Métis people are section 35 aboriginal rights holders according to Powley. If we can get there, then we would like INAC, as the agency of the crown that undertakes land claim negotiations on behalf of the crown, to provide us with a land claim table in accordance with our section 35 aboriginal rights vis-à-vis Powley.

We are Powley Métis, which is how you define which Métis—where in Canada—have section 35 aboriginal rights. Not every single mixed-blood aboriginal person in Canada can meet the Powley test. Not every single mixed-blood aboriginal person in Canada has section 35 aboriginal rights. The members of the North Slave Métis Alliance have been vetted by the Powley test and are the only Métis in all of the Northwest Territories—

Mr. Michael McLeod: Okay. Given that's all in place—

Mr. Bill Enge: Okay. Let's go there. Given that's all in place, then we would say that it's time for the crown to look at providing a new form of land claim negotiations that's more flexible than the one they've been using. The outdated model is too inflexible. They look for hermetically sealed regions and hermetically sealed land claims. There has to be a flexible land claim approach that allows for overlap.

We need to be able to share our land claim areas that are overlapping with those of the Tlicho, the Akaitcho, and any other aboriginal user groups. In this case, if on a section 35 basis we're Métis, we would have a land claim table that is flexible and that allows us to share the land among ourselves, the Akaitcho, and Tlicho.

Mr. Michael McLeod: Bill, I'm really keen to get to something, and I'm not sure you'll touch on it. It's the certainty clause in this comprehensive claim policy. You're okay with that?

Mr. Bill Enge: In the comprehensive claims policy? Well, I'm just talking about a more flexible one. Perhaps I should get my legal counsel in here. He can explain it better than I'm explaining it. I'll let Chris flesh it out for you.

Mr. Christopher Devlin (Legal Counsel, North Slave Métis Alliance): We have just a couple of points.

The first is that Canada adopted a specific regional negotiation policy here in the NWT after the 1990 failed Dene-Métis agreement. That regional policy worked better in the northern Mackenzie Valley. It's not working in the southern Mackenzie Valley because there are a multitude of different indigenous groups using the same area. You can't have, as Bill said, hermetically sealed regions anymore.

The policy has to evolve from being geographically based to being much more ethnically based or much more about identifying the different indigenous users and conceiving of claims that are specific to them and settlements that are specific to those groups of users, rather than specific to a region generally.

On how you would deal with the certainty or the non-derogation clauses, because they go hand in glove, you would tailor those clauses not to the region but to the specific users who are voluntarily enrolling with that under that agreement. They're the ones who would decide if that's acceptable to them and to codify their aboriginal rights under the agreement.

• (0840)

The Chair: You have about a minute, Chief Gargan.

Mr. Sam Gargan: On the comprehensive land claims policy, there was a review done some time ago on it, but there is no flexibility in the policy itself. For governance, for example, it's more like municipal powers. If you look at the 10 principles that the federal government came up with in its effort to define “nation to nation”, that is the one that we would like to see followed. On the certainty clause, the federal government wants that certainty clause for themselves, but it doesn't say anything about our certainty in the final agreement. There has to be some harmony between those two.

We have Treaty No. 11; the Canadian Constitution Act, 1982; the Berger commission; the Dehcho declaration; the Dene Nation declaration; the Royal Commission on Aboriginal Peoples in 1996; the common ground principle in 1998; the statement of reconciliation in 1998; the interim measures agreement of 2001; the interim resource development agreement of 2003; the framework agreement; the UN declaration; and, the Prime Minister's apology: they all should count for something. I think the timing is right. Maybe it's time to refocus somewhere else—

The Chair: That's why we're here.

Mr. Sam Gargan: —to allow first nations their self-determination.

The Chair: Good.

We're looking at moving the questioning to MP Cathy McLeod.

Mrs. Cathy McLeod: Thank you, Madam Chair, and thank you to both presenters.

I want to start with Mr. Gargan. You tabled a document which you called a first nations “resource protocol”. Can you tell me more about that particular document?

Mr. Sam Gargan: It's based basically on a lot of the agreements, the impact agreements that came out. Voisey's Bay is one of them. There are the Mackenzie Valley one and the Norman Wells pipeline and so on. We have a draft. What I'm tabling is not that draft, mainly because we do not have a final agreement, but what we see in our final agreement is that at some point there has to be a stage in which we have a Dehcho mining act, a Dehcho health act, and a Dehcho education act. That should be part of that step towards self-determination once we sign a final agreement. Also, the legislation, along with the final agreement, should be in parallel.

Mrs. Cathy McLeod: You also talked about not using white people's institutions in terms of culture and language, and you talked about an institute. Could you talk a bit more about what you were thinking of in that area?

Mr. Sam Gargan: I'll show you a picture of a moose here, a *golo*. If you're in a white institution, you learn from paper, not from your own environment. If you say the same thing out there, it takes on a whole new meaning, because it doesn't just mean the moose itself but the environment it lives in, the water it drinks, the food it eats, and so on. Showing a picture of a moose in a classroom is not the same.

Mrs. Cathy McLeod: Sometimes in this business, I wish I were a lawyer, because I think you can understand many of these very complex issues more clearly than I do. Being a nurse, I tend to be very practical in terms of what we do and where we go.

Essentially, from your perspective, the Government of Canada has a long history of not identifying the right people to negotiate with. That is the essence of the case. I don't know: is it the Government of Canada or should the indigenous communities come forward? How can we get to where we need to be in terms of identifying the right groups, those that you're actually talking to? Who are the rights holders?

I know that the current government is currently spending a lot of time with advocacy groups, such as the AFN and the ITK, who are not actually rights holders in their own right. How do we create a system whereby the government is talking to the right people?

• (0845)

Mr. Bill Enge: Thank you for that question. There's a very simple solution to that issue, and it's something that I've requested in the past. The government—INAC—needs to provide aboriginal organizations such as the North Slave Métis Alliance with the funding to undertake the creation of membership lists.

The Government of Canada did embark on that very project some time ago, after the Powley test came into existence. The Powley case was ruled on and came into law in 2003. It was a moose-hunting case that happened in Sault Ste. Marie, Ontario. The Supreme Court of Canada ruled that Métis have an aboriginal right to hunt for food. This case brought about a test to determine which Métis, and where in Canada, had this aboriginal right to hunt for food. In order to do that, the Supreme Court of Canada approved a test to be applied to each and every Métis person across Canada to determine which of the Métis people in each geographic part of Canada had a right to hunt for food, which is a section 35 constitutional right.

The Government of Canada gave money to the Métis National Council of Canada to create a Métis registry so that these Métis

could be identified for the purposes of harvesting. Well, the Government of Canada never gave any money to the Métis in the Northwest Territories. I'm not sure how this money managed to trickle out across all of Canada, but certainly none of that funding ever made its way into the Northwest Territories. The North Slave Métis Alliance had to find its own funding to do the Powley test in order to make sure that our members met the Powley test.

The answer to your question is that the crown, I think, has an obligation to provide the funding so that each and every Canadian citizen who's a Métis person can get the necessary documentation to prove they meet the Powley test so the Government of Canada knows who it's dealing with and so there are these registries or lists that can be produced for that purpose.

Mrs. Cathy McLeod: Maybe this is a question for the lawyer at the table, but how does the Daniels decision intersect with all this?

Mr. Christopher Devlin: I have 30 seconds for this.

I think there's a more pragmatic solution, which is that Canada shouldn't play political favourites based on who fits their narrow policy criteria. Here, at least with respect to the North Slave Métis Alliance, Canada has always known that the NSMA existed. It has existed for the same length of time as Canada's negotiating partner, the NWTMN. They just made a political decision, a policy decision, to only recognize the NWTMN and not negotiate.

For over 20 years they've been telling the NSMA to go somewhere else and to be someone else, as opposed to using some type of objective criteria to ask, "Actually who are the indigenous people in this area?" There are a lot of people, including the indigenous people, who can tell them that. That's as opposed to asking, "Who fits into our policy box?"

Mrs. Cathy McLeod: Thank you.

The Chair: You're breaking the myth that lawyers go on and on.

Mr. Christopher Devlin: I'm doing my best, Madam Chair.

The Chair: I'm moving the questioning over to MP Anandasangaree.

Mr. Gary Anandasangaree (Scarborough—Rouge Park, Lib.): Thanks to both of you for being here.

President Enge, I want to pick up on the issue of overlap. You mentioned that it's one of the things we need to get our heads around. Can you identify any particular models where the overlap of rights and claims has been managed well?

• (0850)

Mr. Bill Enge: Thank you for that question. I'm no land claims expert, by any means, right? Of course, my experience is pretty much in the Northwest Territories, but I do know that there's a lot of overlap going on in British Columbia. That's a good example of where there are multiple aboriginal groups with multiple users and plenty of overlap going on. They're managing to figure that out just fine down there, so there it is.

I can tell you that my legal counsel is from British Columbia. He is an expert lawyer from that part of Canada, where he has multiple aboriginal clients who have multiple land overlaps. The Governments of Canada and B.C. have managed to figure out how to settle land claims with multiple users with overlap, so it's nothing new in this country.

For some reason, the Government of Canada has decided that it doesn't want to apply something that has already been done elsewhere in Canada up here where it needs to be done.

Mr. Gary Anandasangaree: Mr. Devlin, maybe you could expand on this. You both mentioned flexibility in terms of policy. What elements would be part of that flexible model?

Mr. Christopher Devlin: Building on Mr. Enge's answer, I would say that historically Canada has always approached comprehensive claims and land claim settlements as intact jigsaw puzzle pieces, and they want the claims to fit nicely and butt up against each other, but within the claim area, there's only one treaty and there's only one claim settlement.

I think the model that we're going to have to move towards to really achieve reconciliation, particularly where you have a lot of indigenous users in a particular area, is to consider how we reconcile the overlapping and equally legitimate benefits, equally legitimate opportunities, and equally legitimate use of the land.

Part of the thinking comes from the historical approach to treaty-making, right? Part of the thinking comes from the legal doctrine of aboriginal title and its exclusivity, but by having to rigidly adhere to those principles, I think it prevents making very sensible settlements or agreements now, where you have multiple users on the same landscape, and having the imagination and flexibility in the policy to resolve what is happening on the ground, which is multiple users on the ground.

Mr. Gary Anandasangaree: Thank you.

I'd like to share my time with my colleague Mr. Harvey.

Mr. T.J. Harvey (Tobique—Mactaquac, Lib.): Welcome, and first of all, thanks to all of you for coming.

My first question is for Mr. Devlin, and then I have a question for all of you.

First of all, do you agree wholeheartedly with Mr. Enge's statement about the current state of overlapping claims in B.C.?

Mr. Christopher Devlin: I think the current state of overlapping claims in B.C. is one that a lot of people are applying their imagination to. There's also a dialogue between the negotiation tables and there are some court decisions about recognizing the practical reality of stacking claims on one another.

Mr. T.J. Harvey: That's a political answer. You should be a politician.

Voices: Oh, oh!

Mr. T.J. Harvey: Then my question to all of you is, how do you think that works? The system historically is very rigid. The British system, or the colonial system, recognizes title based on geographic area. How does that work among indigenous nations for the overlapping piece?

Mr. Christopher Devlin: I have one quick comment, which is that Canada has to stop addressing first nations in a cookie cutter fashion. Each first nation is separate and unique, and those separate and unique circumstances—

Mr. T.J. Harvey: Right. I recognize that, and I'm not disagreeing with what you're saying there, but what I'm saying is that if you have 10 indigenous nations, you can recognize them all differently, but if they all fit inside the same fishbowl, they all have to still be inside the same fishbowl. On recognizing them all independently, I agree with you on that point. What I'm asking you is, how does that work among first nations?

● (0855)

Mr. Bill Enge: Indeed, there is a bit of complexity there, but we can figure out how to coexist with one another within the fishbowl.

Mr. T.J. Harvey: Right. Maybe the fishbowl wasn't a good analogy.

Mr. Bill Enge: We've done so. Here in the North Slave region, the North Slave Métis people have coexisted with our first nation counterparts for over 200 years. We've figured out how to do that.

When it comes to land claims, there are two parts to them. There's fee simple land that the crown turns over to each land claimant, and then there are settlement lands. In this context, we would expect that the crown would set aside a certain amount of fee simple land for the aboriginal people to live on and to use for economic purposes and/or living purposes.

Then there are settlement lands. The settlement lands would be the overlap lands. Those are the lands where the aboriginal people expect to be able to exercise their aboriginal rights 365 days a year, 24 hours a day, seven days a week. Those are the lands where we're going to bump into each other, where I'm going to run into a Tlicho or a Yellowknife person when we're both doing the same thing: hunting from the same caribou herd, like we've done for 200 years. That would be expected, and it's something that we've done for 200 years since the Métis arose in the North Slave region. I have no trouble with that.

Mr. T.J. Harvey: Okay.

Chief Gargan.

Mr. Sam Gargan: I've tabled a document called "Dene Principles & Values". That should answer your question regarding the collective stewardship role that we play.

We also disagree with transboundary agreements between provincial or territorial governments. All aboriginal people have a collective role to play in the use of the land, the way it's used and how it's protected. Take the Site C dam as an example. We don't challenge Site C, but we do challenge the Bennett dam. The experience with the Bennett dam, downriver in Fort Providence, has been devastating. We used that example to show how you can safely build the Site C dam. It's not happening now, but that was the case.

The Chair: Thank you.

That ends your period. I'm so sorry.

Mr. T.J. Harvey: Okay.

I just wanted to say that I meant all my comments with due respect.

The Chair: We have to move on to MP Viersen.

Mr. Arnold Viersen (Peace River—Westlock, CPC): Thank you, Madam Chair.

Thank you to our guests here today. It feels weird to say that, as we're up in your territory.

First off, I would like to go after some comments we had at our last meeting from the chair of the tribunal for specific claims. He said, to some effect, that specific claims are more of a justice issue than a programming issue, and that INAC was set up to deliver the programs that were agreed upon within the treaties. So we have an organization that's really good at delivering programs and isn't necessarily very good at doing justice issues. He argued that land claims are a justice issue, not a programming issue.

I guess what it comes down to is that justice is difficult in that from a judge's point of view, you cannot enact justice. You can only judge on whether something is being just or is not being just....

He's shaking his head on that.

I'd be happy to have a rebuttal to that, to some degree.

Mr. Bill Enge: I'm giving up the red light, Christopher.

Voices: Oh, oh!

Mr. Christopher Devlin: Well, I'll be brief, because I think everyone can....

I think we have lots of examples in Canada of where we've sought justice outside the court system. Justice includes the very nature of reconciliation. Whether it's recognizing the absolute evil of residential schools or setting up the settlement of the residential schools, the Truth and Reconciliation Commission, the independent assessment process, and the payment for attending, those are examples of justice that are not from the courts. They were court-related but very much settlements. It's the same thing with modern land claims. The ability for indigenous people to actively participate over their very lands, which were taken away through the colonial experience to a large degree, is a measure of justice.

As to whether or not Indigenous and Northern Affairs Canada is the right mechanism to deliver justice, that's a great question. We've seen several failures of it. But I think justice can definitely be achieved outside the courtroom.

● (0900)

Mr. Arnold Viersen: Okay.

I think his point was more that INAC has always been focused on program delivery, and it doesn't necessarily have the tools to enact justice in the same way as, say, the justice department would. I'm not sure if you would agree with that statement or not.

Mr. Bill Enge: Thank you for the questions.

Justice is a big word, right? It has a lot of different dynamics to it. I think a step in the right direction toward getting justice is reconciliation. I think that's the path that Prime Minister Trudeau has

set the current minister on. My understanding is that this was in the mandate letter that was provided to Minister Carolyn Bennett when she took on the office of minister of INAC.

She is still part of that mandate now, even though the department has been divided into two separate and different departments. It seems to me that she holds that portfolio, and that this is what this committee is looking into—sort of—in terms of land claims.

A land claim is about a form of justice. It is about reconciling the wrongs of the past brought on by colonialism. It does, in its end form, bring about a form of justice. Of course, there were a lot of wrongs that were committed under colonialism, and there are forms of justice under way, such as reconciliation about the sixties scoop, the residential school experience, and these sorts of things. There are a lot of things like that.

This is a step in the right direction. Getting land claim settlements in place is a form of justice. It's part of the bigger picture. As part of the bigger picture of reconciliation, which is the purpose of section 35 and which the good people of Canada saw fit to provide aboriginal people, I say that this is the right way to go. It's going to help bring aboriginal people into the mainstream of this country and right some of the wrongs that were done to them.

Thank you.

Mr. Arnold Viersen: Thank you.

Mr.—

The Chair: I believe you are out of time.

Mr. Arnold Viersen: Thank you, Madam Chair.

The Chair: This one hour has gone by in a flash.

Obviously, this is a complex issue. We look forward to continuing for the whole day on this. In fact, we have been and will be studying this for weeks. We will continue to hear presentations in Ottawa after today.

I offer our personal thank you for coming out, participating in this, and bringing your wisdom to us. You can be sure that we'll use your words and reflections, and also your recommendations, which will help us, in a report that we will make to the Government of Canada, which is officially then obliged to respond to our recommendations.

Thank you for being part of the process. *Meegwetch.*

We're going to take a short break and then convene with the second panel.

● (0900)

_____ (Pause) _____

● (0910)

The Chair: It looks as if we have all the panellists. If you don't mind, we'll get started. That will give us a few extra minutes to delve into the subjects, and there's a lot to talk about. If that's good for everybody and the witnesses and MPs are ready, let's get started.

We're continuing our process to discuss land claims, both specific and comprehensive, and processes of self-government, which we've heard have been beneficial to communities. We've talked a lot about self-government in one of our last studies, the suicide study. We look for your input on that.

We have three presenters on this panel: the Behdzi Ahda" First Nation, the Northwest Territory Métis Nation, and the Inuvialuit Regional Corporation.

Forgive my pronunciation.

Each group has 10 minutes. I'll try to give you signals when it's time to wrap up so that the MPs around the table have an opportunity to ask you questions.

We have an order listed on the agenda. Unless the groups have changed order, we will go with that.

The Behdzi Ahda" First Nation is the first presenter.

Go ahead, Chief Kochon.

• (0915)

Chief Wilbert Kochon (Chief, Behdzi Ahda First Nation): I'm going to introduce myself in my language.

[Witness speaks in Dene]

I've said that my name is Wilbert Kochon and I'm the chief of the Behdzi Ahda" First Nation. Thank you for listening.

Thank you for the opportunity to speak here today. I am from Colville Lake, a small community 745 kilometres north of Yellowknife. We have a population of about 150. Most of them are members of the Behdzi Ahda" First Nation.

We established our community the same year that the Sahtu land claim was signed in 1993. We built the community by ourselves. As a smaller community, we did not get as much attention as larger communities. That forced us to do things on our own.

We are an independent people. We built our community at a time when Canada's policies wanted to make us dependent.

It seems to us that your policies are stuck in the past. Canada has made a lot of mistakes with those policies.

We have a different view of the future. We want to move forward. Canada and the GNWT should move forward as well. You need to look at your policies again and renew them.

I will now ask our self-government chief negotiator, Joseph Kochon, to speak.

Mr. Joseph Kochon (Chief Negotiator, Behdzi Ahda First Nation): *Mahsi.*

[Witness speaks in Dene]

I've just said that my name is Joseph Kochon and I'm from Colville Lake. I've been doing this work for the last 24 years. I have many roles in my community, and one new role is being the chief negotiator. I'm grateful to be here to present to you some ideas that might help in future deliberations.

We are part of the Sahtu land claim agreement and are negotiating a community-based self-government agreement with Canada and the GNWT.

I am going to start by stating that Canada's self-government policy has been the same since 1995. Over the last 20 years, there have been a number of studies by Parliament, the Senate, and the Auditor General, and commissions about indigenous people, but we still have the same problems facing us. We want your committee to produce an action plan, not a report. Our community has motto: don't talk, just do it. We'd be pleased to lend this motto to your committee.

Canada still has a colonial relationship with us. What would help would be for you to test your policies against the United Nations Declaration on the Rights of Indigenous Peoples. Use that as your guide for what should change.

This government wants to reset the relationship with us. We are glad to see that the Prime Minister has taken action, but we are not seeing that change at the negotiating table. There's a big gap between what the politicians say and what the negotiators say. Somewhere in this big government machine, the people who are supposed to change what is being said at the negotiating table are not doing their job.

We want your action plan to tell the bureaucrats to change their negotiating mandates. Today we are focusing on three areas we see that need to change.

The first is about cultural competency: training for government officials. Government people make decisions that affect our lives. Few of them know about or have been in our community. I can give you examples of problems that has created, with everything from someone in Ottawa trying to shut down our post office because they did not understand the geography of the N.W.T., to houses sitting empty in our community while we have families that are homeless or living in overcrowded houses.

To try to fix that at our negotiations, we have asked for a culturally competent approach to implementing our self-government agreement. What this means is that everyone from government who is dealing with our community should take training to understand us and our context.

Recommendation 57 of the Truth and Reconciliation Commission also approached government to do this. So far, the reaction from both governments to include this in our self-government agreement has been to put it on the "too hard" pile and to prepare us to hear that the answer is no. Saying no is unacceptable.

In health systems across Canada, this training is a priority, because in the health system when doctors and nurses don't have cultural understanding, or if they act on stereotypes, people die. It happened in an emergency room in Winnipeg. There have been similar incidents in N.W.T. and Nunavut. In the health system, people might die right there. It is obvious that they have died because someone was making decisions based on stereotypes instead of knowledge. That's why health systems are changing.

In other systems, such as housing, the suffering is not so obvious, but the suffering happens. People who are homeless because of bad housing policies also die, or families break up or their kids fail at school. It's good to start with health care, but don't stop there. There are ways to kill or harm people other than by denying them immediate health care.

● (0920)

Our first recommendation to you is to give your self-government negotiators a mandate to include cultural competency obligations in land claims and self-government agreements. Require your officials to understand who they are working with.

The second is to change funding policies so that we can speed up the negotiating process. Negotiations with Canada are set up to keep us negotiating for an entire generation—20 or 30 years. This does not help us to rebuild our community, which has been damaged by colonization, and it does not serve taxpayers in Canada well. As you know, we also pay taxes in Canada.

We want an agreement in five years. We are negotiating chapters, including those on governance, housing, and lands. After we have done those things well, we will come back to the table to negotiate more authorities. We can call this a modular or stepping-stone approach. After completing module one, with about 12 chapters, we can focus on implementing and negotiate other authorities later. We are building our government at our own pace.

Canada and the GNWT have committed to completing a final module one agreement with us by 2018. We have one year left to complete our agreement. Canada, the GNWT negotiators, and the bureaucrats are all supporting this accelerated pace as best they can. However, Colville Lake is severely held back by the INAC funding policy.

INAC's negotiating funding policies assume that we will spend 20 years negotiating everything in one agreement. As a result, we cannot get the resources we need to finish in five years because the funding policy assumes that we are going to take 20 years. The funding policy uses the size of our population to also restrict the amount of funding; however, the number of people in our membership does not dictate the amount of work that is necessary for us to complete each chapter that we must negotiate. To serve the needs of all people in Canada and to fulfill the government's commitment to allow us to negotiate from a position of equality, the funding policy needs to change to reflect the actual costs of negotiations.

Our second recommendation is that negotiations and negotiation funding must be flexible. The flexibility must provide resources needed to negotiate an agreement in five years instead of 20 years.

I'll get right to our third recommendation, since we're running out of time. If Canada is committed to renewing the relationship in which crown and indigenous governments work together on matters of mutual importance and concern, the self-government agreement, instead of requiring "certainty", must recognize that we will evolve and take up all our rights and responsibilities.

Thank you. I think you all have a copy of the presentation.

● (0925)

The Chair: Very good. It will be part of the record as well. Thank you.

Moving on to the second presenters, please go ahead, Jake.

Mr. Jake Heron (Chief Negotiator, Northwest Territory Métis Nation): Thank you very much for giving us this opportunity.

Mr. Bailey, who is the president of the Northwest Territory Métis Nation, is unable to attend, so I've been delegated this responsibility. It's an honour and my pleasure to be representing him, given that I'm not an elected official. Having said that, I welcome the House of Commons standing committee here today.

As a bit of historic background, the indigenous Métis of the Northwest Territories have a distinct culture and history, and a separate way of life independent from the Dene people, with whom we have long ancestral relationships. Indigenous Métis helped to establish Fort Resolution in 1786, among other communities in the Northwest Territories.

The members of the NWTMN were the backbone of the Hudson's Bay Company's trading network throughout the Northwest Territories and beyond, including Fort Rae, Fort Resolution, Fort Smith, Hay River, Fort Reliance, Rocher River, Fort Fitzgerald, and Salt River.

Some of the languages spoken are Chipewyan, Cree, French, Slavey, and Michif.

To give you a bit of the structure, the Métis councils are made up of indigenous members from Fort Smith, Hay River, and Fort Resolution. Collectively, we have been in an enumeration process, and close to 3,000 people have applied for enumeration.

The NWTMN is mandated to negotiate the land and resource agreements and self-government agreements with the Government of Canada and the Government of the Northwest Territories, and to seek the recognition of its aboriginal rights. In the NWTMN's constitutional bylaws, article 2(b) lists its objects: to protect, promote, and enhance the aboriginal rights of Métis of the South Slave Region. The NWTMN does not receive core funding from Canada to fulfill its objectives, nor does it do so for the administration of programs and services for our members.

In regard to the implementation of the Daniels decision, as the federal government has responsibility for Métis based upon the Daniels decision, the NWTMN must be treated on an equitable basis, with Indian bands and status Indians, with respect to all aspects of federal programs and services and associated funding envelopes. We implore Canada to take immediate steps to bridge the gap, as the denial of federal programs and services has placed the NWTMN in a dire situation compared to that of bands. The NWTMN requires core funding in order to be in a position comparable to that of Indian bands and their tribal councils.

In terms of principles respecting the Government of Canada's relationship with indigenous peoples, in researching Canada's websites, it's noteworthy to refer to the opening paragraph and the caption entitled "Principles respecting the Government of Canada's relationship with Indigenous peoples", found on the Department of Justice website. It states:

The Government of Canada is committed to achieving reconciliation with Indigenous peoples through a renewed, nation-to-nation, government-to-government, and Inuit-Crown relationship based on recognition of rights, respect, co-operation, and partnership as the foundation for transformative change.

It is fair to say that with a change of government at the federal level we are cautiously optimistic that we will achieve an equitable land and resources agreement, including self-government.

In terms of land and resource negotiations, from 1972 to 1990, the NWTMN participated in the joint Dene-Métis land negotiations. Elsewhere in the NWT, Dene and Métis have negotiated a single agreement, e.g., Sahtu and Gwich'in land claim agreements; however, with the collapse of the territory-wide Dene-Métis negotiations, the Akaitcho Dene First Nation initially decided to pursue a treaty land entitlement negotiation that did not include indigenous Métis of the South Slave region.

● (0930)

The NWTMN land and resource negotiations commenced with the signing of a framework agreement among the NWTMN, Canada, and the Government of the Northwest Territories in August 1996, which set the stage for negotiation of a land and resource agreement in principle.

On July 31, 2015, the NWTMN, Canada, and the GNWT signed the Northwest Territory Métis Nation Land and Resources Agreement-in-Principle. The AIP sets out the substantive basis for negotiations of the NWTMN land and resources final agreement and includes the following matters. Not everything is included, but these are some of the key elements: the continuation of Métis traditional life; wildlife, fish, plants, and tree harvesting practices throughout the agreement area, including gifting and trading; Métis land and community land ownership; a capital chance for resource revenue sharing; consultation for oil and gas exploration, mineral exploration, and development; requirements for the negotiation of impact and benefit agreements; commencement of the self-government and co-management negotiations; and, involvement in heritage resources and protected areas and parks.

The failed 1990 Dene-Métis final agreement formed the basis for the N.W.T. land and resources agreement-in-principle negotiations. The other N.W.T. land agreements also inform negotiations, as the

parties are seeking equity among the aboriginal groups, taking into account population size and the extent of their traditional territory.

In regard to the report of the ministerial special representative, on April 6, 2017, special representative Thomas Isaac prepared a report regarding aboriginal land claims in the southeast region of the Northwest Territories. The following are key recommendations of the ministerial special representative: aboriginal rights are exercised on the same land base by overlapping aboriginal groups.... You all have Isaac's report, so we can just move on.

Concerning implementation, since the report of the ministerial special representative was released, parties have undertaken the following initiatives. Canada and the GNWT have tabled a revised offer for the capital transfer of land, surface and subsurface, and resource royalties, and harvest areas. The NWTMN has tabled a counter. The parties developed a work plan to expedite the NWTMN land and resources negotiations over the next 18 to 24 months.

One other thing is the change in the federal mandate since the AIP. During the July 2016 main table negotiation session, the federal chief negotiator advised that Canada has now a mandate to conclude a final agreement that would be a section 35 treaty land agreement.

Let me just highlight some of the substantive offer: a mandate for land resource negotiations; self-government; overlap; seeking a meeting with the Minister of the Environment responsible for Parks Canada, and recommendations.... One of the reasons why I just touched base on the minister of parks and the environment is that I've been at the table for seven years, and I think we've been asking successive environment ministers to meet with us. We haven't been successful.

In terms of recommendations, we look forward to your assistance in improving land negotiations involving the NWTMN; ensuring the minister's response for the negotiation on parks; INAC should meet with the NWTMN leadership on a regular basis; ensuring that timely negotiations with the N.W.T. final agreement are a priority for Canada and the GNWT; ensuring that the final agreement is equitable with other aboriginal final agreement negotiations as offered; and, exploring viable options for generalized interest in terms of sharing the royalties in the subsurface.

I'll quit there just to get a little bit of grace.

• (0935)

The Chair: All right. It will give us more time to delve into the areas that members want more information on.

To our final group, please go ahead. You have 10 minutes.

Mr. Duane Ningaqsiq Smith (Chair and Chief Executive Officer, Inuvialuit Regional Corporation): Thanks, Madam Chair.

Thank you all for the opportunity to present before you. My name is Duane Smith. I'm the chair and CEO of Inuvialuit Regional Corporation. With me today is my general counsel, Kate Darling. We will, as others have, just make it briefer than what we had planned. We have provided our presentation to the interpreters.

The IFA, which is the Inuvialuit Final Agreement, is a modern land claim agreement within the meaning of section 35 of the Constitution. This agreement is not just ours. It belongs to both Inuvialuit and to Canada. Under it we each carry solemn obligations to diligently carry out its promises. The IFA established the Inuvialuit Regional Corporation as the organization with authority to generally represent the rights and interests of Inuvialuit and to manage the implementation of the agreement. We have gathered a lot of experience on this topic in our 33-plus-year history.

Through our land claim agreement, Inuvialuit would seek to ensure a balanced approach to our resources that preserves the integrity of our treaty rights and pursues reconciliation over the long term. Under the distinctions-based approach, in accordance with principle 10 of the principles respecting the Government of Canada's relationship with indigenous peoples, "a distinctions-based approach is needed to ensure that the unique rights, interests and circumstances of the First Nations, the Métis Nation and Inuit are acknowledged, affirmed, and implemented."

Since settling our claim in 1984, the Inuvialuit have shouldered the work of ensuring that federal laws, policies, and operational practices are consistent with the Inuvialuit Final Agreement and support its objectives. This has often been a difficult exercise in coordination and education of federal representatives. More recently this has begun to change for the better.

Inuit from the four Inuit regions of Canada have also signed the Inuit Nunangat Declaration on the Inuit-Crown Partnership. Under this structure, our land claim organizations have been active participants in the development of Canada's Arctic policy framework. We've also contributed to the work of the review of law and policies project. These are important venues for ensuring that the federal government—our partner under the IFA—has the proper guidance for its work toward achieving the objectives under the agreement.

With that we'd like to make our first recommendation. The IRC respectfully requests that the committee include in its report the recommendation to continue to invest time and intelligence in the Inuit-crown partnership, the Arctic policy framework, and the review of law and policies, and that Canada continue to approach this work through a distinctions-based approach.

With regard to implementation, I'd like to speak now to key issues relating to the implementation of our modern treaty. For Inuvialuit everything flows from the implementation of the IFA and its

achievement of its stated objectives: to preserve Inuvialuit cultural identity, for Inuvialuit to be equal and meaningful participants in the economy, and for us to protect and preserve our environment for our children.

Over the past three decades, Inuvialuit have received only nominal amounts to support the management of implementation. We receive \$40,000 annually, which covers participation at the meetings of the IFA implementation coordinating committee. In comparison to what other land claim agreement holders receive, this is a fraction of what is seen as necessary to carry out the functions of a land claim organization.

We have made the argument that where land claim agreement holders must undertake some functions of government in order to address service gaps, doing so requires a reasonable level of financial support.

With that, we'd like to make our second recommendation. The IRC respectfully requests that the committee include in its report the recommendation to fix the inadequate core funding situation that has limited the IRC's ability to manage the implementation of the IFA since its signing.

• (0940)

In addition to the level of funding, the form of funding can be a constraint upon or a catalyst to implementation. Inuvialuit have proven ourselves to be able business people, project managers, and programmers. If we were not in the ISR providing health and wellness programming and helping to propel economic development, these obligations would fall to Canada and the territory. In order to operate effectively, the IRC needs longer-term financing arrangements that will allow for better planning, consistent offerings, and better outcomes.

This leads to the third recommendation. The IRC respectfully requests the committee include in its report the recommendation to extend longer-term flexible funding arrangements to land claim agreement organizations with established track records of financial responsibility.

In the ISR there are areas where progress has been made such as on skills and training through the federal ASETS program, but there are other areas where minimal progress has been made, like in "Economic Measures" under section 16 of the Inuvialuit Final Agreement and sections relating to parks.

Inuvialuit and Canada would benefit from the establishment of an accountability framework for land claims implementation. This would assure Inuvialuit that the federal government is working diligently to satisfy its promises and would demonstrate to Canadians that tax dollars are being put to constitutional and legislated purposes.

This leads me to our fourth recommendation. The IRC respectfully requests the committee include in its report the recommendation to develop an accountability framework to track the implementation of the IFA and other land claim agreements.

Under my final subject matter, laws and policies, no matter how strong or well drafted a modern treaty may be, if a law, policy, or administrative measure conflicts with the terms of the agreement, this can have an immediate detrimental effect. We experienced this with the 2012 omnibus bills that amended the Navigation Protection Act, the Fisheries Act, and the Canadian Environmental Assessment Act. We are experiencing this now with the joint Arctic leaders' statement, which instituted, without consultation, the moratorium on offshore development.

We may experience this with the amendments proposed in Bill C-55 to the Oceans Act and the Canada Petroleum Resources Act. Canada has demonstrated on these occasions a disregard for the objectives of the Inuvialuit Final Agreement, the processes established under the agreement, and the role of Inuvialuit in our own future.

The IRC, the Inuvialuit Game Council, and several IFA co-management bodies participated fully in the reviews of the National Energy Board Act, the Canadian Environmental Assessment Act, the Navigation Protection Act, and the Fisheries Act. We have also made lengthy submissions on the frontier and offshore regulatory renewal initiative, or FORRI as it's referred to, the Oceans Act, the CPRA, and CEAA, among others. We also intervened in the Supreme Court Clyde River case alongside our fellow Inuit, all of these at our own expense.

As we put forth in Clyde River, free, prior, and informed consent is an essential element in co-operative federalism that includes indigenous authorities. Further, for FPIC to work, consultation and accommodation is required. As we continue to explain to Canada, the Arctic cannot serve as the environmental conscience of the nation without commensurate support in line with the objectives of the IFA to advance the quality of life and opportunities of Inuvialuit.

This leads me to my two final comments and two final recommendations.

The Inuvialuit respectfully request the committee include in its report the recommendation to fix the conflicts created by the past amendments of significant pieces of legislation and to incorporate the reasoning of the Supreme Court of Canada in the Clyde River decision in Canada's approaches to environmental regulation.

• (0945)

The final recommendation is that we finally, humbly request that the committee include the recommendation to engage with land claim rights holders to determine an adequate exchange where Canada intends to remove economic opportunities from land claim beneficiaries.

Thank you very much.

The Chair: Thank you.

Now we move to the questioning portion, and we start with MP Michael McLeod.

Mr. Michael McLeod: Thank you, Madam Chair.

Thanks to everybody who presented here today. I know some of you have travelled quite a distance to be here to sit in front of our committee and talk about our study on specific claims and land claims.

I've heard, I think from all of you over the last while, as to some of the challenges, especially in Colville Lake, where we know the negotiator from the federal government leaves Ottawa on Monday morning, gets to Yellowknife, stays overnight, flies to Norman Wells the next day, overnights, and flies again. By the time he gets to Colville, it's Wednesday. He negotiates on Wednesday afternoon and part of Thursday, then he has to make his way back to Ottawa. It takes five days, and you get maybe a day out of it.

We have, certainly, a lot of challenges, but I'm very interested in how things are working, especially with the two land claims that were settled. I saw two in Inuvialuit. Has it done what you expected it to do? Has the framework that you negotiated this claim under allowed you to be where you wanted to be?

The second question is to all of you. What are you envisioning? Where do you expect to end up as a self-governing aboriginal or indigenous government? I keep hearing many, many things, challenges with aboriginal governments that have settled. They still have many issues over housing and economic chapters. There are so many things that seem to still be there, so maybe talk about the land claims, and then maybe talk about where you want to be with self-government.

We'll start on this end and just work that way.

Mr. Joseph Kochon: For the land claims, the self-government framework is straightforward. We mentioned that we're having a problem from the top to the bottom. The Prime Minister is saying all the right things, that he wants to work with indigenous people, but then it's not trickling down to the workforce.

It's making it really difficult when we're sitting down with negotiators. They don't even have a new mandate. Today they're still functioning under the Conservative government's mandate, and they said they don't have a new mandate from the Liberal government, which makes it really frustrating. That's the problem we see, that it's not really hitting the ground. That's on the framework.

Mr. Michael McLeod: Go ahead, Duane.

Mr. Duane Ningaqsiq Smith: Throughout my very brief statement I touched on quite a few areas where there needs to be improvement, Michael.

Where do I start? We're expecting the same types of services that all Canadians take for granted in southern Canada. You look at the health and education, at the outcomes of those. Why do we continue to have these difficulties? You heard from my colleagues, in their presentation earlier, in regard to a health example. We've stressed certain areas within the federal government's final agreement as well as ours, the IFA, on where it's still lacking in regard to implementation.

We have to keep in mind that these modern-day treaties are living documents. We can't be expected to sign them and go away, expecting a we're-done-so-leave-us-alone mentality. It's signing on to a relationship for us to work with each other on a day-to-day basis for the implementation of these treaties, for them to be successful to the extent that they can be.

• (0950)

Mr. Michael McLeod: Can I just ask you, then...? What we just heard from North Slave Métis points to the fact that land claims policies and models are totally outdated and should be changed. Are you of the opinion that the model is okay, but the implementation is wrong? Is that what you are saying?

If it were up to you, would you have scrapped the whole model and developed a new one, if you were at the starting gate again?

Mr. Duane Ningaqsik Smith: If I were starting at the gate, my whole region would be mine. The compromise that we gave up... Some people may not believe it, but we are an unceded region, as you've heard from other areas within Canada. It's not for me to say whether what we negotiate is right or wrong. It's what I have to live with and to implement, and I can't allow that to be diminished on a daily basis.

Mr. Jake Heron: Just quickly, I have a couple of things. One is, of course, that the Isaac report sets the basis for a new relationship, and presumably with the implementation of some of those recommendations we'll be able to get to an agreement. We all know that the challenge in the South Slave is that we are amongst two or three groups that have interests in the South Slave area. In that context, we are still optimistic that with overlap discussions we could, in fact, reach an agreement.

The other thing, with what we envision, is that we have an evolutionary arrangement that is somewhat different from the other models. I think we all recognize that the model of geographic confinement, as far as section 35 rights are concerned, is not a good model. We are endeavouring to ensure that our section 35 rights get implemented beyond what the historical settlement line is, so that our rights are recognized and we continue to harvest under section 35 and not extinguish those rights.

Thank you.

The Chair: That wraps up our time.

Now we are moving to MP Viersen.

Mr. Arnold Viersen: Thank you, Madam Chair.

Thank you to our guests today, as well.

My question is for Mr. Smith. You mentioned parks, just briefly. Could you just go back to that and expand on that issue a little? I was just googling your land claim, and there is a big national park in it,

three of them. It looks like a beautiful place. How have the expectations from both sides played out?

Mr. Duane Ningaqsik Smith: We have three large national parks within my region. It's the first modern treaty to establish a national park with the federal government, as well. All of those combined are roughly 50,000 square kilometres. We have five bird sanctuaries in my region. We have a national historic site. We have the only two marine protected areas in the northern part of Canada, which we established. We also have the Pingo Landmark, for the geographical significance of these unique features that are only in Canada.

It's been 33 years and going, and there are certain sections of the Inuvialuit Final Agreement that make reference to how parks should be managed together, and with this, it's still not a success story. We are still struggling with capacity and training. The Pingo Landmark has no resources allocated to it. There isn't a visitor centre. There is no staff. There is nothing. What was the purpose of having this created if Canada is not going to contribute toward its...?

Mr. Arnold Viersen: In Alberta right now, we are working on taking parts of our eastern slopes out of circulation—that's how I put it. One of the things I get frustrated with is that we have this protection of the land from Albertans, rather than protection of the land for Albertans. I'm just wondering if that has been your experience as well, with parks in your area.

• (0955)

Mr. Duane Ningaqsik Smith: The national parks themselves have all been created, in collaboration with us, for various reasons: for their unique beauty, their significance, and/or the preservation and sustainability of the ecosystem within that area. We have worked closely in that regard, and we continue to do that in regard to other potential marine protected areas within our region, as well. Again, there have to be adequate resources and funds to properly manage these sites so they can work properly.

Mr. Arnold Viersen: I was looking at some of the pictures on Google. Has there been an opportunity to share these beautiful places with the world, bringing people in from around the world?

I know right upstairs there's a sign saying that the northern lights are going to be good tonight, or there's a fifty-fifty chance, that kind of thing. Has Parks Canada been working with you to develop some of those things?

Mr. Duane Ningaqsik Smith: That's another area where there's a lack of consistency and strategic planning, as you're suggesting, should be put in place. That's what we'd like to work with them on. Their budget in our region has not increased in 14 years so they're dealing with dollars from way back then. How far can those reach?

You're starting to see the frustration from my region in regard to the lack of consistency from the federal side on the implementation of land claims. I'm trying to be strategic and come up with solutions where we can work together to implement our land claims.

Mr. Arnold Viersen: One of the things that Michael brings up often at this committee is that a comprehensive land claim allows development to happen and resources to come to your region. Has that happened since you signed the agreement?

Some of the markers we look at are things like, has housing improved, are there fewer children going to bed hungry, has the suicide rate changed? If we were to mark some of these things on a graph, would we see a change in the graph for the better after the agreements were signed? I know everybody says implementation continues to be a problem, but has there been a change in any of those things?

Mr. Joseph Kochon: There have been some big changes since we signed the comprehensive land claim agreement. Our community was able to enter into an arrangement with the oil companies. We found a partner, we drilled for gas, we explored, and we found subsurface resources. We've built up our capacity that way, and we've built up our heavy equipment. As a result, we're capable of building roads. We're building our own roads. In the last five years, we've built our airport. There have been some good things that came out of having the land claim agreement.

Mr. Arnold Viersen: Mr. Smith, would you say that overall the agreement has been a good thing?

Mr. Duane Ningaqsiq Smith: I would say it's provided us with some security, but as they touched on earlier, the statistics are not moving up or improving to the degree that they could and should be.

Mr. Arnold Viersen: Thank you.

The Chair: Does everybody know what a pingo is? It's a geological formation that is unusual. It has an ice core that grows and diminishes. A quarter of the world's pingos are in your territory. That's just a little geological fact. As a geologist, I think we have an important obligation to educate ourselves.

We'll start with MP Harvey.

Mr. T.J. Harvey: I'll allow Mr. Heron to ask his question since he never got to it.

• (1000)

Mr. Jake Heron: As you know, we don't have a settled agreement. One of the benefits of being a johnny-come-lately, I guess, is with the evolution of the laws, the times progressing, and the aboriginal people moving forward with respect to their own education and well-being in their participation in the Canadian economy. One can say that—I've said it publicly and I've said it privately—we, the Métis, are a distinct group in the Northwest Territories.

You can look at us statistically. On a per capita basis, we probably have the most private businesses and we're probably the best educated. Also, we're active members of the community. We're contributing members to the community, just as other people are, but on a per capita basis I think we can easily demonstrate that leadership the Métis have always had as that go-between in terms of the first nations and the non-aboriginal people. We've played a vital role in the development of the north, and we continue to do so today.

With the advent of agreements, looking at other agreements, and seeing what has happened, and with the evolution over time, comes the opportunity to make something better as Canadians and aboriginal Canadians and to fulfill the obligations that we see are necessary for us to move forward and become decolonized and productive citizens—we've been productive citizens, notwithstanding that.

I think we need a little more consideration for some financial aspects, an appreciation for revenue sharing, and recognition. We have done things ourselves as leaders. That's not to say that we don't need help, but I think that maybe the independence has made us the kind of people we are today. That doesn't mean we shouldn't be securing things that are going to act as multipliers in the economic sense.

Mr. T.J. Harvey: I'm going to start with Chief Kochon and go across the panel.

In terms of land claim settlements and the ability of indigenous nations to see overlap in the way their land claims fit together—we touched on this during the first hour this morning—how important is that? In your opinion, how does that work? How does that ability of first nation communities to overlap in their claims fit together?

Chief Wilbert Kochon: A long time ago, there were a lot of agreements made before the land claims. I've always stood by our land claims with the Inuvialuit and the Gwich'in where our past leaders or elders have always shared land through hunting, but when there are economics, that's when the line is drawn.

We have always worked with the Gwich'in and Inuvialuit. It's pretty obvious that they're different people and different groups that all want jurisdiction on all lands, but the one important thing for our people is to always use the land for its traditional uses. That's one important thing: we are part of the land.

Just to make it clear to you, when we say we're part of the land, you have to be out there to understand what I'm really talking about. It was important to our elders, so they made agreements without paper, and we have always kept to that. For the overlaps, we're still working on that to make agreements. We have done that with all the leaders whenever the time comes up.

Mr. T.J. Harvey: Mr. Smith.

Mr. Duane Ningaqsiq Smith: Under the Inuvialuit Final Agreement, we have processes established for overlapping issues. As well, within the final agreement, we have an agreement with the Gwich'in of Old Crow. Under our land claim, the Porcupine caribou management process was created. We worked together to implement that section of the Inuvialuit Final Agreement throughout the whole territory.

We have the Aboriginal Pipeline Group. All of the indigenous peoples got together to work towards the Mackenzie gas project. It went through all the environmental assessments and got its National Energy Board certificate, and then, unfortunately, gas prices crashed.

There have been examples out there, and we do have processes in place in regard to addressing overlapping issues for the benefit of everybody.

• (1005)

Mr. T.J. Harvey: Perfect.

Go ahead, Mr. Heron.

Mr. Jake Heron: Needless to say, the Métis on the south side probably have the biggest challenge of all. We don't have a claim yet, but we have our cousins, if you wish, the Akaitcho first nations and we also have the Dehcho, the K'atl'odeecche, and the Athabasca Denesuline, to deal with. We are actively looking and moving forward with endeavouring to do some overlaps. I think one of the key elements of this exercise for us is that the claim is not about economics, although we intend to benefit from it. It was really to enshrine our aboriginal rights.

Section 35 indicates that we have those rights; we have them inherent, asserted, or whatever you prefer. That forms the basis for moving forward and subsequently, once we all understand we're on the same basis and have equal rights before the law and the Constitution, it helps to set the framework for which we can begin to really move forward with overlap discussions.

Mr. T.J. Harvey: I want to give the rest of my time to MP Anandasangaree.

Mr. Gary Anandasangaree: Thank you.

I just want to pick up on the concept of a stepping stone approach. I think you had mentioned it with respect to comprehensive agreements. Could you just elaborate on what that actually would look like?

Mr. Joseph Kochon: Is it okay if I have legal counsel answer that question?

Mr. Gary Anandasangaree: Sure, maybe we can just ask you to submit something to that effect, because we are out of time. I think we can have you submit that in writing at some point.

The Chair: The time for questioning has run out. We are now actually moving on to another questioner, and that is MP Cathy McLeod. Please submit the document so then it can be part of our documents and part of our report writing.

Mrs. Cathy McLeod: Thank you.

Certainly, the more we hear, the more it's clear that we have very complex challenges. Of course, Canada is such a huge country, and every region is so diverse and has its own areas that need resolution.

I just want to start with this. I know we have heard from the new government on the importance of the relationship. To your awareness, was there any consultation at all in terms of that oil and gas moratorium with any groups or the Northwest Territories legislature, any consultation before that was announced? I believe it was in New York.

Mr. Duane Ningaqsik Smith: I guess I'm the only region that it affected for this part of the—

Mrs. Cathy McLeod: It affected the prosperity of the north, though.

Mr. Duane Ningaqsik Smith: That's correct.

We received notice about two hours beforehand that it was going to be announced, and that was the extent of the consultation.

Mrs. Cathy McLeod: Thank you.

Certainly that, in my opinion, differed very dramatically from what has been said is going to happen in terms of these very important decisions that get made. I also understand there have been

some pretty significant numbers put out there in terms of the creation of parks and protected areas, sea, oceans. You did indicate that the conversations in that regard have been reasonable in terms of creating that percentage and where it was going to be in the creation of parks.

Would that be fair to say?

Mr. Duane Ningaqsik Smith: I also stated that we don't want to be used as the excuse for the federal government to meet its international obligations on an artificial quota, in my view, either on land-based or marine-based protection. Again, we'd rather work together on identifying potential sites and seeing the relevance of them, rather than just having it dropped on us because it's the Arctic, and it's large and it's empty. That's the mentality of the south. Let's just put an MPA there to meet our goals and objectives, which Bill C-55 is working towards, and then you have another court challenge.

That's why we pointed out the relationship between what Bill C-55 says and what the Clyde River ruling of the Supreme Court was. There needs to be a review of that to make sure you're not conflicting again, because it will be another court case, as I said.

• (1010)

Mrs. Cathy McLeod: So that I can understand better, because every region is different, how are the natural resource revenue-sharing opportunities, the impact and benefit agreements.... Is every agreement separate, or are there some basic standards in terms of what you're doing and where you're going?

I look at this in relation to B.C. In an earlier panel they said we'd solved the overlap or we were doing a pretty good job with overlap. To be honest, I don't think we've done such a good job with overlap, because we have very few comprehensive claims that have been completed. Can you talk a little bit about how, what, and where things are going in terms of those natural resource development pieces?

I'll leave that open to anyone.

Mr. Duane Ningaqsik Smith: I'll start, I guess, since the light is still on.

For the whole territory, I would think, there is no gas or oil development anymore. The price has dropped so much and the cost of conducting exploration or development within the north is so high.... Again, this territory is sitting on trillions and trillions of cubic feet of gas alone, leaving aside the oil. There has been a pipeline coming out of the territory since 1935, roughly, that has extracted oil to the south. Again, there is no activity. We're trying to stimulate natural gas development to serve our region and other areas.

In regard to devolution agreements, the GNWT has one with most of the indigenous organizations within the GNWT, and Jake has touched on that in regard to resource revenue sharing to the extent that this agreement does. Then there's also another section within that agreement that has not been implemented by the federal government. The GNWT, the Inuvialuit, and the federal government signed another agreement to start negotiations on the offshore. It has been roughly two and a half years and we're still waiting for those negotiations to begin.

The Chair: I'm sorry. We've run out of time.

I want to thank you very much for travelling here, for presenting, for bringing your views to the table. We'll use your comments and your wisdom to prepare the recommendations that we will submit to the federal government.

Chief Kochon.

Chief Wilbert Kochon: Can you give us more time next time? I wanted to talk more. There are a lot of things we didn't talk about.

The Chair: We'll work on that.

Chief Wilbert Kochon: Some of the things that Michael mentioned I wanted to discuss, but I can talk to him myself. He can mention it to the rest of the committee.

The Chair: Absolutely.

Cathy.

Mrs. Cathy McLeod: If out of this conversation, even in the next few weeks, or out of this hearing you have something that you wish had been presented or that you think of, please don't hesitate to send a quick note or a briefing. It does become part of the full record.

The Chair: You'd have to be very quick about it. The official deadline was the 20th, but Cathy has given you an invitation so get those pens out and send us an email quickly. We have to write the report, and there's fairness.

Thank you very much for coming.

With the committee's permission...I need your guidance because I see that we have the national chief for the Dene Nation with us.

Welcome, Bill.

What we'd like to do is expand the next session so that there will be four presenters. We're going to start the next panel in four minutes, if we have agreement.

Okay. We'll suspend for about three or four minutes, and then we'll have four presenters.

●(1010) _____ (Pause) _____

●(1020)

The Chair: Let's get the meeting started.

We have a special session. Normally we don't have four presenters, but we're going to extend the length of time because one of the presenters from the first panel couldn't make it, Chief Erasmus, and we would like to hear from him, so there will be an extension of this session.

Welcome to this standing committee of Parliament. We are here to study land claims, both specific and comprehensive. We're interested in your views on modern treaties and self-government. It's a complicated study.

This is our final outward tour. We've gone to Vancouver; Winnipeg; Belleville, Ontario; and Quebec, and now we're here, compliments of MP Michael McLeod, who said we must come up and hear from you. We're so pleased for the invitation.

Let's get started. We're going to call on the national chief of the Dene Nation, Bill Erasmus, to start us off.

You have 10 minutes and then the other presenters will also speak. After that there will be rounds of questioning. I would ask MPs to be specific as to who they're addressing their question to.

Please, go ahead.

Chief Bill Erasmus (National Chief, Dene Nation): Thank you, Madam Chair. *Mahsi* for this opportunity to speak to you.

My name is Bill Erasmus. I'm the national chief of the Dene Nation. As you know, there's a long history in the Northwest Territories dealing with land claims. I thought I would talk a little bit about some of that history to give you an understanding of it and talk about some of the more recent things that are happening and give suggestions on how to make improvements.

I don't have written notes, but I will draft a note to you so that you have it for the record.

Thank you also to the MP for the Northwest Territories and the western Arctic, Michael McLeod. We know that he asked you to come north, and we're very pleased that you were able to do that.

There are other people who wanted to come forward who never had an opportunity. For example, I spoke to Chief Frieda Martselos from Fort Smith this morning. She and her people settled the Salt River First Nation agreement in 2002 and they have a lot of concerns they would like to bring forward. I have asked her to put those on paper and send them directly to you, and possibly have an opportunity at some other point to speak to you, if that's possible by telephone or however.

●(1025)

The Chair: We'll take note of it, and if there's a possibility, maybe we can send the invitation to participate in a panel.

Chief Bill Erasmus: She said she's even willing to go to Ottawa if that were the case.

The Dene go back a long ways in this whole business of land claims. In the early seventies, we took the federal government to court because of the interpretation of Treaties 8 and 11. Canada's version was that we gave up our treaty and aboriginal rights, either through our treaties or through legislation. Our leadership decided to take that to court, and in 1973 Justice Morrow ruled that we did not give up our rights. Treaties 8 and 11 were peace and friendship instruments, so they were not treaties that gave up our lands, our rights, or our resources. As well, those rights were aboriginal rights protected under the Canadian Constitution, and Canada had an obligation to deal with them and protect them.

At the same time, there was the case from British Columbia involving Frank Calder of the Nisga'a. They negotiated. They were people who never had a treaty. They went all the way to the Supreme Court of Canada, and they also won their case, which proved they had aboriginal rights. For the first time in Canada, we were told that we had rights. That's where the land claims came from, those two court cases.

As the Dene, we were invited to participate, so we were at the table up until 1990. We also included the Métis with us. You heard some of the Métis here earlier today. At one time, we were all together at one table. We signed an agreement in principle, and we also signed a final agreement. Canada chose to continue to negotiate with us, and they chose to change the policy that guides them so that they could deal with people on a regional basis. Then you had the Gwich'in agreement, the Sahtu agreement, the Tlicho agreement, and the Déline agreement, which comes out of the Sahtu agreement.

At one time all of us were together. Then it went regional. You also have some communities like Fort Liard that are at the table on a community basis. So the policy has changed quite dramatically without our involvement. That's a unilateral imposition on the part of Canada, which really is not the best way to approach things.

Along with that, we have a number of reserves now. The first one was set aside in 1973, the Hay River Reserve. It was set up so they could protect their interests, because NTCL was going to take over their land and they found that the best way to protect their interests was to set up a reserve. The reserve has been set up since then. The problem is, in terms of implementation, that they don't get the same services the reserves in the south get, and most of the financing for their reserve goes through the territorial government, which they have a huge problem with.

In speaking with Chief Martselos this morning, this is part of the big problem. She says, in her words, the federal government is not committed to implementing their agreement. Their agreement was put in place in 2002, and they still don't have water and sewage on their reserve. They have had to use their own dollars to set up what water and sewage there is. Rather than use the dollars outlined in the agreement, they have to resort to their own financing.

• (1030)

As I said, she will put her concerns on paper for you.

In her words, also, she believes that Canada is stalling the negotiations, and we don't know exactly why. We know that Canada didn't want to have reserves north of 60, but the fact that they're here means they have to deal with them, and they should get the services outlined to them.

We know there is the other reserve just south of Fort Smith, on the Alberta side. They work with the Alberta government. It's like night and day. They get a lot of services that others on the N.W.T. side don't.

I have two more quick points. Canada is looking at setting up a fiscal relations table with the Assembly of First Nations, and we welcome that. It's looking at a whole new way of financing our communities. We feel that if we're able to sort out where the dollars are going—because right now we're not entirely clear; some of it goes to the federal government, some goes to the provinces, some goes to the territorial government, very little comes to us—if we're able to get rid of the middleman and have those dollars come directly to us, that will certainly help us. We support that fiscal relations table. We need you to understand it and to support it also.

The other point is on the review taking place that's looking at old, outdated policies. We want you to also look at the devolution agreement that was passed in the N.W.T., because it was under the

other administration and it left out 15 or 16 communities throughout the Mackenzie Valley. It's happening without recognition of the actual negotiations taking place at the Dehcho and the Akaitcho tables.

Thank you.

The Chair: Thank you.

Next we move to the Tlicho government, George Mackenzie. Welcome, Grand Chief.

Grand Chief George Mackenzie (Grand Chief, Tlicho Government): *Mahsi*. Thank you.

I'd like to welcome the committee to the north. Some don't need to be welcomed, like Michael McLeod.

Anyway, I'm the grand chief of the Tlicho nation. I was the grand chief in 2005. I was re-elected grand chief this past September. We govern 4,000 Tlicho people. Tlicho have land claims and self-government agreements; only three in Canada have a regional indigenous government. Tlicho own 39,000 square kilometres of land surface and subsurface rights, a single block about half the size of Nova Scotia. We have been working with Canada on the joint policy to fund indigenous governments. This work is crucial to the Tlicho government. Adequate funding based on actual costs will benefit our citizens, especially our most vulnerable citizens like the youth, elders, and women.

I'm the spokesman for the Tlicho government, but I'd like to turn the rest of this Tlicho government presentation to our legal counsel, Bertha Rabesca Zoe, to elaborate on the fiscal aspects of our presentation.

• (1035)

Ms. Bertha Rabesca Zoe (Legal Counsel, Tlicho Government): *Mahsi*.

Implementation is crucial to the parties in meeting their obligations under land claim agreements. There has been ample work done on it, and studies and reports through parliamentary committees and the Auditor General over the years, since land claims have been in existence. To the Land Claims Agreements Coalition, which a lot of us are part of, the key purpose is on implementation policy. Canada doesn't have a policy on implementation. LCAC drafted a model policy that we've been trying to get Canada to work with us on for quite a while.

One of the things that happened through a lot of our lobbying efforts, and I'm sure some of the leaders here will be touching upon the implementation challenges, is the creation of the deputy ministers' oversight committee and the modern treaty implementation office, which we think is a good step.

Tlicho is unique. As the grand chief said, Tlicho has a comprehensive civil land claims agreement and self-government combined. We have full jurisdiction and law-making authority on Tlicho lands; therefore, governance systems, structures, and operation are crucial. It requires adequate funding based on actual costs.

Over the last year and a half, our government has been engaged with the Government of Canada and other indigenous self-governments in a historic and unprecedented collaborative fiscal policy development process. Through the process, we are working together to develop a new fiscal policy for consideration by Canada that will have profound, positive impacts on our people's well-being. The process is a major step forward, and we are grateful for the leadership your government has shown in building a new and different relationship with us and other indigenous self-governments. Working together to develop these important policies is a fundamental aspect of reconciliation and key to a strong and prosperous relationship. It's time to make the changes real.

We now have a chance in budget 2018 to make concrete changes. The changes we can make now are on, first, new governance funding. A lot of work has gone into determining the actual costs of running our governments. Canada and the indigenous governments together have developed a model using data brought forward by the Tlicho government and the other indigenous governments on their needs and by looking at the cost of comparator governments.

For the Tlicho government, the new model is particularly significant as past policies have failed to account for the costs of our four communities, former Indian bands, coming together as the Tlicho Nation and under the umbrella of the Tlicho government. We call this "aggregation". Failure to take into account the impact of this aggregation has resulted in a significant underfunding of our government and also acts as a disincentive for other indigenous peoples to come together based on collective identities as we have.

The new funding amount put forward should not be viewed as an aspirational ask from the indigenous governments. The amount represents what our governments actually required as determined through a rigorous and collaborative analysis.

We know there will need to be many discussions on cost-sharing mechanisms in the coming months, but those are separate discussions. Right now, it is important that the governance model developed be approved as is and that the full amounts identified make it into the 2018 budget. In this way, our future discussions on cost sharing will be based on a sound model and full picture of the governance costs.

In addition, in terms of closing the gaps, three proposals have been put forward setting out immediate measures to begin addressing significant gaps in infrastructure, housing, and social well-being in our communities.

An example of the type of initiative that the proposals would support is the Tlicho early learners program. The Tlicho government has identified a critical need to invest in our early learners. We are facing a significant challenge with those children arriving at school with a substantive gap in speech, language, and socialization levels.

●(1040)

We have developed a proposal for an initiative that would not only provide those kids with the support needed to catch up, but also do so by drawing on our culture and making that a fundamental aspect of the solution.

We would be pleased to provide you with the details of the opportunities and proposals, if you would like.

These are important proposals that have the potential to result in real and significant changes on the ground in Tlicho communities. I would like to really stress that it is important that the proposals make it to the 2018 budget as proposed because they represent what is really required by our governments and by our treaties.

Mahsi.

The Chair: Thank you.

Now we have the Gwich'in Tribal Council. We're honoured to have Bobbie Jo Greenland-Morgan, grand chief and president.

Welcome.

Grand Chief Bobbie Jo Greenland-Morgan (Grand Chief and President, Gwich'in Tribal Council): *Mahsi cho.*

Vahn gwiinzii, Madam Chair and distinguished members of the committee.

This is my first time in my capacity as the grand chief that I am presenting to the committee, and I realize that time is very short here. I know I'm not going to get through everything, but I'll do my best. I'd like to give a little background and then perhaps share some of our successes, our challenges, and then of course end by giving you some of our recommendations.

For those of you who don't know Gwich'in, our traditional territory extends through parts of Northwest Territories, the Yukon, and Alaska, where our people have lived for time immemorial. We are signatories to Treaty No. 11, which was signed in 1921 as you have heard. We're also signatories to the 1992 Gwich'in Comprehensive Land Claim Agreement. I was only 15 at the time when our claim was signed, and now, in my capacity as the grand chief and president, it hasn't taken too long to see that we are not where we should be 25 years later.

There have been some successes, I must say. Some of those successes include, after the claim was settled, the development of co-management boards, such as the Gwich'in Renewable Resources Board, Gwich'in Land and Water Board, and community-level-designated Gwich'in organizations in each of our communities. We have a board of directors in place that gives the direction to the Gwich'in Tribal Council. In 2003, we also had the land use plan finalized for the entire settlement region. We did, in April, celebrate in each of our communities that 25-year milestone. We do recognize there are things to celebrate, but there's also a lot of concern in terms of implementation and how the government has been failing in some areas, in our perspective.

The Gwich'in claim is unique for many reasons. One of the reasons is that we look at it as a land claim within a land claim in regard to the Yukon Transboundary Agreement, which is appendix C. I'll touch on this again later if I have time, but for now, the committee should be aware that the Gwich'in traditional territory and now the land claim itself straddles the Yukon-NWT border, and this leads to a variety of challenges for us, complications that remain not well understood by key government officials and departments.

I recognize that many of the submissions you will receive will focus on some negatives and there's always room for improvement. Let me get right into some ways we think we can improve here.

The situation and examples bring several of our concerns to the surface. First, there is a need for government to be more active partners in the implementation of modern treaties, a partner that recognizes the extreme resource and capacity constraints of indigenous organizations, and steps up with leadership assistance and genuine interest in making this progress with us—again, a step towards reconciliation. Failure to shift thinking and action in this manner pushes modern treaty holders to what has been referred to as “implementation by litigation”. Such an approach would be, in our view, a win-lose at best, and more likely lose-lose for Canada and indigenous groups.

There's also clear accountability gaps with respect to the implementation of our modern treaties. The government is slow to act because there are minimal accountability mechanisms in place. The government, to us, seems slow to act for those reasons. Government systems and structures need to be improved to ensure that officials are vested in the joint projects of implementing these agreements. There needs to be a recalibrating of departments' and officials' interests and incentives to ensure accountability and motivate action.

In regard to consultation, as the committee would be aware, Canada has come a long way, largely through court decisions, in clarifying consultation roles and duties of government and industry. The progress continues and we welcome much of this. However, we do feel there is an urgent need.

In just the past year alone, it's very obvious that an organization such as the Gwich'in Tribal Council lacks capacity in certain areas. Just in the past few months, for example, we have been engaged in 10 different legislative reform initiatives being moved forward by the GNWT, many of which will affect core protection and interests in our land claim agreement. There are currently no less than six federal legislative reform initiatives that also affect our core rights in respect to fisheries, navigation, energy, environmental assessments, and more.

•(1045)

This does not include any of the many matters on the Yukon side that I have mentioned, nor does it include broader policy framework engagement, nor does it include specific project development consultation, to say nothing of ongoing social issues in areas such as health, education, early childhood development, and justice.

As the committee would be aware, Canada has made several changes in recent years to the system's structures and processes dealing with modern treaties, including a statement of principles on

the federal approach to modern treaty implementation and the cabinet directive on the federal approach to modern treaty implementation. However, we feel there's much more room for improvement.

In our view, we'd like to align with the Land Claims Agreements Coalition's position that it would be more appropriate for all of this to be embedded in an overarching federal policy. Creating such a policy is an opportunity for Canada to set out clearly what its intentions and goals are, and how all the recent changes and structure coherently work together to reach stated objectives. Without such policy with everyone involved, including government departments, officials, industry, and modern treaty holders, this will continue to operate in a context of wasteful time.

We further suggest that an independent modern treaty implementation oversight office be established, either within or in addition to the overarching federal policy. We see a strong and urgent need for an independent oversight office, as the Nisga'a mentioned in their submission to this committee. A detailed proposal on this will be forthcoming from the LCAC.

I strongly believe that this structural change is the key component that would benefit all parties and ensure that any progress being made today can withstand any setbacks in the future. The time for this is now, and the change is a relatively easy one as the proposal will detail. This would be a key institutional cornerstone of reconciliation for us all going forward.

In conclusion, I would like to suggest you consider the following suggestions. First, address the accountability gap through the creation of the independent oversight body. Second, address unmanageable consultation burdens through new creative approaches. Third, improve coherence across new and old federal system structures and practices through the creation of the national overarching policy. Enhance measures to sensitize departments and officials to modern treaties in the context of modern treaty holders, including the aligning of incentives and attitudes.

I have more to say but I know I'm out of time here. *Mahsi cho* for listening and considering our perspectives.

•(1050)

The Chair: Thank you.

That was well managed. You could have squeaked in a little bit more, but we'll have an opportunity to ask you questions to elaborate.

I want to make a special welcome to former Liberal MP, the Honourable Ethel Blondin-Andrew. It's so nice to see you and to meet you. It's your turn and you have 10 minutes on behalf of the Sahtu Secretariat Incorporated.

Hon. Ethel Blondin-Andrew (Chairperson, Sahtu Secretariat Incorporated): *Mahsi cho*.

[*Witness speaks in North Slavey*]

Thank you for coming to our territory. You're on the territory of Treaty No. 8 and the Métis people of this area. Welcome.

I'm from up north. I'm from the Sahtu region. I want to say a special hello to my MP, Mike McLeod. I've known Mike for many, many decades.

That makes us sound old. I'm old, Mike, but you're good and new. You're okay.

I want to thank him for the work he does for us and for how well he advocates on our issues.

I appreciate the invitation to make a submission to the standing committee on behalf of the Sahtu secretariat with respect to our regional land claim agreement and our comprehensive land claim experience over the past 25 years. I encourage this committee to undertake a thorough study of comprehensive land claim implementation in Canada and that federal systems support the full implementation of those agreements and the realization of the objectives of those agreements.

When I left federal politics in 2006, I went back to work for my people. That too is the highest calling and honour, including being in the public service. I've learned a lot. My name is Ethel Blondin, and I'm the chair of Sahtu Secretariat Incorporated. I work with the Sahtu secretariat board, which consists of the presidents of the Sahtu land corporations, to represent the Sahtu, Dene, and Métis land claim participation. A delegation of the Sahtu leadership preceded us. They were from Colville Lake.

Our seven land corporations are very, very busy. We essentially take on all of the responsibilities that any government would. We look at economic development, social programs, and any new amendments to territorial or federal laws. I was just at a meeting on Friday with Minister Philpott, Minister Bennett, and Minister Wilson-Raybould on changes to legislation and how it affects women, basically, and our communities in general. Some of what I say here I will have said there.

The SSI was established by seven land corporations to implement the Sahtu Dene and Métis Comprehensive Land Claim Agreement on behalf of the Sahtu, Dene, and Métis in the Sahtu region. In most land claims, even if you have Métis and Dene, they subsume each other. They come together. Ours didn't. We have three Métis communities and we have four Dene communities. They went side by side and stayed that way. They did not subsume each other.

What usually happens is what happened in the Tlicho region, where the chiefs formed their organization. We in the Sahtu have two organizations. We have the Sahtu Dene Council—you saw Chief Wilbert Kochon, who belongs to that council—and we have the seven presidents under SSI. We have two major organizations there.

The one that's responsible for the land claims implementation organization is SSI. We work together. We try to find accommodation on very complex, very critical, and sometimes very juxtaposed issues. We try to come together and find accommodation. We have a joint assembly, which I think is good. We've come to that. They vote their own resolutions and we vote ours. The chiefs vote on their own stuff and we vote on our own. We come together on economic issues because it affects everybody.

The primary organization in terms of implementation is the organization that I chair. My main job, as the implementer, is to work with the federal government and territorial government. We're about to go into a meeting pretty soon on that. We go to Ottawa and we meet in Yellowknife. Sometimes we even meet in different regions.

SSI was assigned certain implementation responsibilities under the land claim agreement, including the management and administration of capital transfer payments and certain resource royalties from Canada. These funds were assigned to the Sahtu Trust. We have two trusts. We have a huge trust that has been making money.

Making money is not always good news. People like to fight over money. You'll know that it's not the hard times that bring the acrimony. It's usually when you're debating over per capita payments and when you're debating over who gets what. So we have good news and we have challenging times.

● (1055)

We also have another one, which is called the Sahtu Master Land Agreement. It's kind of like an equalization formula. It works really well when we have a lot of development. Every land corporation that makes above \$400,000 puts the balance of that into a common kitty and then it's redistributed in a financial formula. On an equalization, even those that don't do well that season get money, and those who do well are helping others, but they get more than their share. So it works out differently.

When the master land agreement is challenged, when there's no activity, it becomes very difficult because what we get depends on what the federal government gets, because our revenue stream comes from them under different arrangements, through our claim.

The SSI is the trustee of the Sahtu Trust and the master land agreement trust, which facilitates the sharing of resource revenue generated from the surface of the lands and mines on settlement land amongst the Sahtu, Dene, and Métis, and it administers the trusts on behalf of 3,500 participants of the land claim agreement. This is a mixture of Métis and Dene.

The Sahtu, Dene, and Métis have lived in the settlement area since time immemorial, and now live primarily in the communities of Norman Wells, Tulita, Deline, Fort Good Hope, and Colville. The Sahtu, Dene, and Métis in Canada signed the land claim agreement on September 6, 1993. On June 23, 1994, it was ratified by Parliament. Oddly enough—it's kind of strange—I was there. I was asked by the minister at the time to do the honours on that claim, on the Sahtu claim.

Under the land claim agreements with the Sahtu, Dene, and Métis, Canada committed to meet broad but focused socio-economic objectives, including the following objectives. The first was to encourage the self-sufficiency of the Sahtu, Dene, and Métis, which is based on the cultural and economic relationship between them and the land

The second objective was to provide the Sahtu, Dene, and Métis with the right to participate in decision-making concerning the use, management, and conservation of land, water, and resources. We do all that. We're very challenged for resources, but we step up to the plate and we respond to all those issues. We have people from our area representing us on tracking change, and stuff to do with water. We participate in the water management strategies.

We also deal with SARA, all of the legislation that deals with species at risk, and we also have people on park management and park creation. We created a park in our tenure, in these last 10 years. In my tenure we've created a brand new park called Nááts'ihch'oh, and a lot comes along with that. To provide the Sahtu, Dene, and Métis with wildlife harvesting rights and the right to participate in decision-making concerning wildlife harvesting and managing, that's a big issue.

I think sometimes we undersell the importance of things like this. In the recent months—

• (1100)

The Chair: You have one minute.

Hon. Ethel Blondin-Andrew: If we have one minute, then I'm going to do this.

We need you guys to take land claims seriously. A claim is good, but the implementation and the resources to do so are even more important.

We need you guys to be sincere and honest about procurement policies. We don't want people coming here and stealing our opportunities in our own land when we have people who are capable of making those deals.

We also need you guys to take aboriginal health seriously. The issue of dental health is a major non-insurance health benefit issue that affects our people. Our children and our people are suffering because it's so expensive. With the amount of money that has come out of our land, we should all have perfect teeth.

On the other hand, I think there are a lot of issues on land claims. The reason I don't like appearing before a standing committee is that you can't do justice to the way that you want to express yourself. You're in a squeezebox. I'd rather talk to my own people on my own terms and go to Ottawa and talk to the minister than be put in a squeezebox that pays no respect to the way we communicate.

I also would like us to have the proper infrastructure. Infrastructure will be transportation. We need a Mackenzie Valley highway completed to make food available and affordable for our people.

Thank you very much.

The Chair: The lesson learned is it's harder to control MPs than lawyers. Ethel, those are very good points. I'm just teasing.

Now we're on to the question and answer period, and we will have a significant amount of time so we're able to dig into your recommendations.

We're going to start with our local MP, Michael McLeod.

Mr. Michael McLeod: Thank you, Madam Chair.

Thank you to everybody who presented here today. Of course it's always a challenge to try to get everybody's comments and opinions.

Today we're talking about a very important subject that I was very adamant we start to take a look at. That's the whole issue of specific claims, comprehensive claims, self-government, and what we need to do. We are working on trying to get the right relationship between Canada and its indigenous peoples.

We've already had a number of presentations from aboriginal governments that have settled land claims. We have heard about implementation, some issues with self-government.

I'm trying to get a read on what needs to change. We have settlement areas, but we still hear about housing, health, and economic development. Some of the claims seem not to address these issues at all, and we have some areas of the territories that have no land claims. The issue is still the same there. Should we, as a government, be changing the mandate of land claims, or is it okay and we should focus and put more emphasis on implementation? Will self-government solve those issues, or should that policy change also?

It's broad. We don't have a lot of time, but can you give me a snapshot? We'll start over here.

Hon. Ethel Blondin-Andrew: As you probably know, we have five self-governing arrangements unfolding at various stages in my community. The five communities are all at different stages. One is complete.

What's significant about this is that the land claims agreement trumps the self-government provisions, and having said that, it sets the stage for everything else. We have to work together. Eventually, if all my communities get self-government, what happens to the mother organization? We have to redefine ourselves at SSI. We have to have a repository of certain authorities maybe, and then the rest goes to the community, which is fine with me. I think we've learned not to hang on to power. The power should be given to the people to do what they will.

A land claim is only as good as the implementation plan. We need more resources. I work with the land claims coalition and so does the Tlicho—we've been working with them for quite a while—and our bid has always been to get more money for implementation.

• (1105)

Mr. Michael McLeod: Bobbie Jo.

Grand Chief Bobbie Jo Greenland-Morgan: Thank you.

The Gwich'in Tribal Council has in the past year also been a part of the implementation committee. We have the 10-year plan. But in the past year, sitting at those meetings, my concern is just that things move really slowly. That's where a lot of our problem is, in enhancing and getting to where we should be. Some matters that might be of urgency to the tribal council, for example, appear to us to be not as important or as urgent to the government. Things just take a long time to move along.

If I may, I will give the example of the economic measures set out in chapter 10 in the Yukon transboundary agreement that I mentioned. Economic measures are an instance where government has perpetually read the provisions narrowly instead of approaching this work to actively implement the spirit and intent of the agreement. Chapter 10 contemplates support of the Gwich'in traditional economy, the marketing of renewable resource products, training, and education assistance, yet the meagre activity that has taken place has focused on the relatively weak provisions that deal with government contracting.

Mr. Michael McLeod: You're saying the implementation is the issue, not the actual policy.

Grand Chief Bobbie Jo Greenland-Morgan: Yes, for sure.

Mr. Michael McLeod: Maybe I could just get a comment from the Tlicho.

Ms. Bertha Rabesca Zoe: *Mahsi.*

As you know, the Tlicho are self-governing, and with governments you have jurisdictions. When it comes to the issues of health, education, and housing—the question you're asking—a lot of that is within self-government agreements and the shared jurisdiction. The Tlicho have an intergovernmental services agreement with GNWT. This agency delivers health and education within the Tlicho region, and the GNWT retains jurisdiction over housing. Self-government includes those things, but if the Tlicho government decides to one day draw down the jurisdiction, it would require negotiation. Again, though, a lot of these programs are not adequately funded, so the question is why would the Tlicho government draw down on housing when the funding level for housing is wholly inadequate?

This takes us back to my earlier presentation, about those three proposals that we submitted to Canada that deal with social housing and education. Now, Prime Minister Trudeau and this government have been talking about closing the gap, right? What is the gap between indigenous peoples and the mainstream, and how do we address that gap? One of the first things we want to do with this proposal is find out the baseline: where are we in our communities on these social issues and the well-being, and what is the gap? What do we need to close that gap, so we're on the same level in comparators?

That's the stuff that's done through the fiscal work and the work that the Land Claims Agreements Coalition has been doing for numerous years. We're all partners, we all work together, and we all develop these policies and the work that the coalition has been pushing for years. We need the coalition to be taken seriously by this government on the ample amount of work that is done on implementation issues and policies, and on our concerns.

Mr. Michael McLeod: Is that it for the time, Chair?

The Chair: I was going to let you wrap up, but we've run out of time on that questioning. It's been seven minutes. Perhaps somebody else will follow through on that.

The questioning now goes to MP Cathy McLeod.

•(1110)

Mrs. Cathy McLeod: I will give a quick minute to national chief Erasmus. He didn't have a chance to jump in.

Chief Bill Erasmus: Thank you. I'll be very brief.

It's all about authority. The Canadian Constitution makes it really clear. There's section 35 for indigenous people, section 91 for the federal government, and section 92 for the provinces. The Supreme Court of Canada says those are the three sovereigns, so we're talking about sovereign authority on this side. Canada has not come to terms with how to deal with our sovereignty. There are problems with the policy—setting up the policy to negotiate with us—and there are problems of implementation; there are problems at every level.

The agreements that are on this side of the table need to be in the Prime Minister's Office. They need to be where the NAFTA agreement is. They need to be where other treaties are. Professor Alfonso Martinez, who did the study for the United Nations, said that a treaty is a treaty. So an Indian treaty—those are our agreements—is the same as any other international agreement. That's the way we need to look at it.

Thank you.

Mrs. Cathy McLeod: That, to some degree, leads into my next question, and then hopefully I have time for a third.

We heard from the last panel that there was no consultation over what potentially could be a lot of economic prosperity and opportunity with the unilateral decision about offshore oil and gas. I understand that there has also been a unilateral decision in terms of the imposition of a carbon tax. It probably has its benefits and its negatives, but there is nowhere that I think it will affect more than northern communities and communities that are already struggling.

First, were you part of that conversation? Were you given numbers in terms of how it's going to impact your community? Have you been given any kind of opportunity to have that dialogue with the federal government as they look towards implementing a unilateral decision?

Chief Bill Erasmus: We were not approached about the carbon pricing. It's unfortunate because, as you know, climate change and all of that affects us greatly. We're probably one of the most vulnerable people because we're closest to the land. That's what I was trying to say earlier. We need to be part of every conversation. As an authority with governing powers, we need to set up our own institutions so that we're able to govern ourselves. Even if those institutions are not in place, Canada's economy needs to include all of us. If it means putting money in trust, then that's fine, but we haven't been part of that discussion. Thank you.

Mrs. Cathy McLeod: I think in many ways what I'm hearing in the Northwest Territories and in the north, although there are many challenges ahead, I think.... Again, I'll use comparisons. Compared to the province that I represent, British Columbia, you seem to have dealt with a lot of very difficult issues and have at least moved many steps ahead of perhaps where we are.

I can appreciate Ms. Blondin-Andrew's comments about the lack of time and that boxed feeling. But hopefully there still is great benefit in terms of the work that committees do. It's not the be-all and end-all, but recommendations do go through to the minister and the Prime Minister from the work the committees do. I do appreciate the frustration, but hopefully we do see some changes made as they relate to the work that you put in to present and that we do here listening.

One of the most surprising things about the hearing is this. I knew we had a specific claims process and challenges with the specific claims process and the comprehensive process. I recognize and acknowledge the importance of these processes. Until I met with the Lands Claim Coalition, I had always assumed that, once these agreements were signed, the implementation was taken care of. I think perhaps the biggest surprise for me in the last couple of years since I've taken on this portfolio and role is how we haven't done that. I really appreciate the suggestions we had in terms of some things we need to do: when we sign an agreement, we have to honour it, and we have to implement it.

I know that Bobbie Jo Greenland-Morgan made a number of suggestions. I thought those were interesting suggestions. Does anyone else have other suggestions in terms of ensuring the implementation of signed agreements and treaties?

• (1115)

Ms. Bertha Rabesca Zoe: Again, as Ethel mentioned, with regard to the procurement issues and the economic chapters in the agreement, the implementation of those needs to happen seriously. We all have similar economic measures chapters that deal with procurement in our region and that deal with a lot of remediation site work that is crucial to the economy and to the environment, and also the work that the coalition has been doing in trying to advance an implementation policy.

We do have a model policy that's floating out there based on the four-ten principles we've been talking about that the leaders here have mentioned. We've been involved in implementation since day one at the implementation committee and so forth. We worked with the previous government, and we didn't advance very far. Hopefully, through this government, we'll be able to pick up the pace in implementation. Through the coalition, we've done lots and lots of

work, so if that work could be taken seriously and considered seriously, that would be a huge step in the right direction.

Mrs. Cathy McLeod: Grand Chief—

The Chair: You're out of time.

MP Anandasangaree, I understand you're splitting your time with MP Harvey.

Mr. Gary Anandasangaree: Thank you, Madam Chair.

My thanks to the panel for joining us, and a special welcome to Ms. Blondin-Andrew. We had some good discussions over coffee about a year ago. I look forward to connecting with you again.

I do want to focus primarily on self-government issues, and perhaps, Bertha, you can start off with respect to the type of policy you're able to exercise right now. You've already identified some of the limitations vis-à-vis implementation due to financial resources. Perhaps you can expand on the specific policy you have, focusing on education, language, and cultural rights.

Ms. Bertha Rabesca Zoe: The Tlicho have a full box of governance. There are other agreements, negotiated rights, that we don't have and we can negotiate that into our agreement. We do have, as Grand Chief said, 39,000 square kilometres of land, which is huge. One of the first things the government did was put the lands into moratorium until we develop a land use plan.

The land use plan is very critical to the operations of the Tlicho government in terms of what areas are available for what. Because we have three diamond mines in our traditional territory, that mining activity and the mineral rights are really important to the future of the Tlicho. The land use plan is a step in determining those rights and which area of the land is available for development.

The Tlicho have opened up their lands for development via the land use plan. Now GNWT is working on Wek'èezhii, which is land that is outside of our territory that includes a management area for regulatory purposes and for wildlife management. They're working on a land use plan for that area, so we're working with them and making sure that the buffer zones are all the same. That will determine how land is going to be used. That's all part of the type of authorities the Tlicho have. We developed this land use plan ourselves, and we had to consult with other governments on it, so it's a reversal of—

• (1120)

Mr. Gary Anandasangaree: With respect to education, maybe you can touch on that. Are you exercising that power right now, or is it still being negotiated?

Ms. Bertha Rabesca Zoe: The Tlicho have a different position, that through the intergovernmental services agency that the Tlicho are actively involved in, that it's all driven by the Tlicho. In the school system, their principle is "strong like two people". So we haven't exercised that jurisdiction, but because the ISA agreement that we have is a 10-year agreement, we're negotiating a renewal of that agreement and we're contemplating the possibility of exercising that jurisdiction.

Mr. Gary Anandasangaree: Ms. Blondin-Andrew, with respect to overlapping rights and claims, I know this is something that's come up. Are you dealing with a situation where there is overlapping jurisdiction?

Hon. Ethel Blondin-Andrew: Yes. Unfortunately, my friend Bertha and I have an issue between our two claims. There's an overlap there that was created in a very complicated way, I suppose. We don't only have that issue, we have overlap issues with multiple parties, the Na-cho Nyäk Dun, the Dehcho Treaty 8, and what I'm asking the federal government to do is to hold a full workshop on overlapping agreements with us. They're working on that. We're trying to find a solution.

There's something I wanted to tell the committee that I thought was good news. When we dealt with the implementation of our claim, we're on 25 years we had to renew our agreement. If you think negotiating a claim is hard, try renegotiating the funding provisions for your claim after it expires. It's very challenging. But one thing I thought Minister Bennett and her cohorts did well was to increase the money for the renewable resource councils. They have an onerous role. The role went from being hunters and trappers organizations to being monitors of environmental change, climate change and all that. We asked the government to triple the funding. They doubled it. The effects of that, which I've seen throughout the Northwest Territories with the renewable resources councils, have been just fantastic. It was a really good thing to do. So things can happen that are good.

Mr. Gary Anandasangaree: We've heard extensively about the difficulties in actually negotiating the claims. That's been our experience over the past several weeks on the first part of this. I think what we're hearing about today is a bit more of an advanced stage, where you're talking about actual difficulties in implementing. While we've heard that before, I think your focus is not so much on the negotiation itself per se, because that appears to be something that is working or has worked. It's now about implementing it. I think that's a really important issue.

You've said that there is a renewal or renegotiation after 25 years. Was that built into the agreement, or is that...?

Hon. Ethel Blondin-Andrew: Yes, there's a time period. I think it's after 10 years.

Mr. Gary Anandasangaree: In terms of review or renegotiation, is that built into any of your agreements as well?

Ms. Bertha Rabesca Zoe: There are no renegotiations of the agreement. There are amendment provisions, but the implementation plan that accompanies those agreements is for 10 years, and there are options to renew or renegotiate.

Mr. Gary Anandasangaree: Ms. Greenland-Morgan.

The Chair: I'm sorry, Gary. We've run out of time on that one.

We're now moving to MP Viersen.

Mr. Arnold Viersen: Thank you, Madam Chair.

Is there anyone else who wants to take a crack at that last question? Did you need a little more time on that one?

Hon. Ethel Blondin-Andrew: Can I add something?

Mr. Arnold Viersen: Yes.

Hon. Ethel Blondin-Andrew: As you know, history is the judge of this process. Implementation is a challenge for every government. It doesn't matter who they are. They could be NDP, Liberal, or Conservative. It doesn't matter. It's a challenge for every government because it deals with resources, and you're not renegotiating the provisions: you're renegotiating the funding for the provisions. That's what I should clarify.

Thank you.

• (1125)

Mr. Arnold Viersen: Go ahead, Bill.

Chief Bill Erasmus: Thank you.

Part of the fundamental problem we have is that because our people were on the land until quite recently, and people who moved into our communities were relocated into our communities as late as the seventies, while we were on the land, the territorial government assumed authority over our programs and services. At first, when we were negotiating with all of our communities, we wanted to take over all the programs and services. In 1986 we were instructed that this wasn't possible through the negotiating process. To date, there are very few communities that have control of this, and that's part of the big problem: there's now a whole bureaucracy. There's a whole civil service around providing the services to our people, whereas in the south on the reserves, people have the opportunity to provide their own services through their tribal councils and so on. Here, the funding goes to the territorial government. Now we're trying to wrestle that from them, and we're also trying to wrestle it from the federal government.

In reality, because we're parties to Treaties 8 and 11, that shouldn't be a problem, because part of the treaty arrangement was that we would always govern ourselves. The difficulty today is that some of our chiefs say they want to take over something but are told they can't unless they have a self-government agreement in place. We really are hampered by that. People want to get on and want to do a whole number of things, but they're told they can't until they have a self-government agreement. We've been at the table since 1973. We have only five communities that have settled out of 30. It's a huge problem.

Mr. Arnold Viersen: I ask most groups that come here about the fact that all around this table we have made an assumption that the comprehensive land claims agreements are good things and that they bring prosperity. I was wondering if I could just go through the lineup to see if you agree with the statement that comprehensive land claims are worthwhile things to be pursuing.

I'll start with Ms. Blondin-Andrew.

Hon. Ethel Blondin-Andrew: In our case, the 25 years of negotiations started with all parties included. There was a breakdown of that major comprehensive claim and it went to a regional claim mode, but many of the guiding principles, provisions, and AIP decisions were there already, so they took that and worked regionally with it. That's what happened with us. I think it's good.

Our challenge is always resources. We're really challenged by a lack of infrastructure and by remoteness. I don't know if they get calculated into this, but that's what our challenges are.

Mr. Arnold Viersen: Grand Chief.

Grand Chief Bobbie Jo Greenland-Morgan: I think it can be good. Part of the vision that our leaders had regarding what this claim was going to bring for us has been achieved, but a lot of it is not there. It's like a marriage: you get into something, but it isn't going to prosper if you don't work on it together. I think that's where the problem comes from. The vision was there, but are we implementing it properly? No. There are all these things we are not doing. Even if you look at the 2003 Auditor General's report, Sheila Fraser specifically commented on the Gwich'in and the complexity of things. If you haven't read that report yet, I suggest you do, because in there it is documented that the government does need to honour the intent of the treaty.

Mr. Arnold Viersen: You said earlier that you straddle the Northwest Territories and Yukon border. Do you see differences on the two sides of that border in being able to attract investment from around the world? Is it different from one side to the other? Have you been able to attract investment in, say, mining operation, oil and gas, or fishing?

Grand Chief Bobbie Jo Greenland-Morgan: As I mentioned earlier, it's one of our biggest files right now, which we're trying to make progress on. Until we make that progress, I don't think I can even answer that question.

Mr. Arnold Viersen: Well, just on—

The Chair: Sorry, your time has expired.

MP Harvey, go ahead for two or three minutes.

• (1130)

Mr. T.J. Harvey: I have a couple of questions for Ms. Andrew.

First of all, thank you to all of you for being here today. Certainly we've had really engaging panels this morning. We've had the opportunity to hear a bunch of broad viewpoints.

With regard to the overlapping and the issues around that, how are the different nations coping with that, with the overlap and the...I don't want to say "dispute", but the uneasiness that would come with not having that resolved between neighbouring nations? What are the best steps forward for that?

Maybe I'll ask that to both of you.

Hon. Ethel Blondin-Andrew: Complicated, challenging, and unresolved: that's all I can say. I think we've tried almost everything. It's very, very difficult—for us; we're the ones with the problem.

Mr. T.J. Harvey: For you guys, is that about utilization of the land for recreational purposes and hunting and fishing, or is it about subsurface rights?

Hon. Ethel Blondin-Andrew: No, it's about economic measures mostly, economic opportunities.

Mr. T.J. Harvey: Okay. I wasn't asking that as a loaded question, either, just for the record. I was just curious.

Bertha.

Ms. Bertha Rabesca Zoe: Currently we're working with Canada regarding some discrepancies within our boundaries. So we're trying to work those out before we finalize anything. There's no huge thing, but we're working with NRCan on finalizing the boundary. It is finalized, but there are just a few discrepancies we need to work on.

Mr. T.J. Harvey: Okay.

Does anyone else want to comment on the overlapping issues that can or will inevitably result from having indigenous nations share those fluid property lines?

Yes, Chair.

The Chair: In one minute: please, tell us what we can do across the nation. I have a few of those issues in Manitoba.

Chief Bill Erasmus: Yes, well, look at what the Royal Commission on Aboriginal Peoples talked about in 1996. They talked about recognizing that the indigenous peoples in Canada have underlying title, meaning that we used all of the land, and you let them settle their differences. For example, there were issues here in this area. When the elders sat down, they settled it. The problem was that one first nation was at the table first. Canada wanted to provide them everything that was on the table, until other people spoke up.

If you let people sort out their differences amongst themselves, using their own mechanisms, then you don't have a big problem, because those differences have already been settled. That's why people are where they are.

Thank you.

Mr. T.J. Harvey: Thank you.

The Chair: That basically concludes our time. We do have another panel, and we are expecting to host the premier.

I want to thank you for travelling, for sharing your time with us, and for your words of wisdom. As we say, sometimes it seems frustrating. The committee has heard it. You know, we've talked to committees before; we've expressed ourselves; we're frustrated. I think we understand that. But it's a tool for us to raise the issues again, to put them into the public face, to present them to Parliament, and to refresh the calls. That's exactly what we'll do. I believe we'll have the report done before Christmas, or submitted.

I thank you very much for your input.

Hon. Ethel Blondin-Andrew: Can I ask that I leave my written presentation, so that it will get the full—

The Chair: Absolutely.

Anybody who has written documents, please leave them with the clerk. We'll ensure that they're part of our record.

• (1135)

Hon. Ethel Blondin-Andrew: Thank you.

Ms. Bertha Rabesca Zoe: The Tlicho did an impact study of the Tlicho agreement on the northern economy. It showed that we contributed about half a million dollars to the northern economy because of the Tlicho agreement, through our businesses and all of that. Could we give it to the committee?

The Chair: Please do.

Thank you very much.

We'll take a short break, and then we're going to reconvene.

• (1135)

(Pause)

• (1145)

The Chair: Let's start the session on time. We have the respect from the premier, who is here and made time for us, and I want to be sure that we have an opportunity to use every minute we have with Premier Robert McLeod.

You are our final guest on a cross-Canada tour that we've done from Vancouver to Winnipeg to Ontario and Quebec. Now we're here on the urging of MP McLeod, saying we must come up. It was our pleasure to be invited.

We're studying land claims, both specific and comprehensive. We want to hear about self-government agreements. We will be preparing a report that will be submitted to Parliament. The Department of Indigenous Affairs will be required to respond to us. This will be another opportunity to help guide the government in a process of truth and reconciliation and good governance.

Welcome on behalf of all of the committee members. We're honoured to be here and to have you join us. You have 10 minutes to present, and then we'll have questions from the MPs, which will give us time to delve into issues.

Go ahead, any time you're ready.

Hon. Robert R. McLeod (Premier, Government of the Northwest Territories): Madam Chair, members of the committee, thank you for the opportunity to present to you today in relation to your study on modern treaties and self-government throughout Canada.

The Government of the Northwest Territories has made it a priority to advance, finalize, and implement land, resource, and self-government agreements, including post-devolution initiatives. We appreciate this opportunity to participate in your committee's study, and hope that it will contribute to continued progress on this important initiative for the people of the Northwest Territories.

The Government of Canada has made strong statements about the importance of a renewed relationship with indigenous people and the contribution of colonial structures to the unacceptable socio-economic condition in which too many indigenous people in Canada find themselves. We strongly agree on the importance of Canada renewing relationships with indigenous peoples. We also believe we have much to offer in terms of how to renew that relationship and support self-determination. We believe constitutionally protected agreements are the highest form of recognition of aboriginal rights. We also believe final indigenous rights agreements are the appropriate tool to codify those rights in the legal and constitutional framework of Canada.

The Government of the Northwest Territories believes that the certainty provided by final rights and self-government agreements is central to the health of our communities, our economy, and our environment. Our government has been committed to negotiating and implementing land, resource, and self-government agreements in the Northwest Territories for over 40 years. Today there are five settled land claims in our territory and two settled self-government agreements. Our government works in partnership with these claimant groups on a government-to-government basis, unlike those typically seen in southern Canada.

Our government-to-government approach is formally enshrined in our intergovernmental relations policy and reiterated in *Respect, Recognition, Responsibility*, our approach to engaging with indigenous governments, published in 2012. Canada's principles and our respect, recognition, and responsibility have many similarities, including a formalized recognition of the inherent right to self-government. Our approach respects and incorporates the commitments made in settled claim agreements, and is further supported by bilateral MOUs that we have entered into with several indigenous governments. It is important to point out that our policy doesn't recognize just those indigenous governments with a settled claim. We also formally recognize as governments those indigenous governments who are also currently in negotiations or have a right to negotiate.

In addition to the settled claims, the Government of the Northwest Territories is currently implementing negotiations to continue on with three other regional claims. Our government remains committed to seeing these three claims finalized and implemented. Settling these claims is a priority. We continue to look for new ways to bring negotiations to a successful conclusion. That commitment included the appointment of two ministerial special representatives, by me and by Minister Carolyn Bennett, to look closely at claim processes in the Dehcho, Akaitcho, and South Slave regions. As a result of that work, we were able to table innovative new offers with the N.W.T. Métis Nation and Akaitcho. The offers were designed to be as flexible as possible and allow indigenous governments to choose how best to pursue their own priorities through the claims process.

Another innovation of the GNWT to support the settlement of claims is looking at the option of negotiating a generalized interest in resource development. Generalized interest would allow indigenous governments to receive a share of revenue from the development of resources on all lands in their region, not just on settlement lands. Aboriginal rights and self-government agreements remove barriers to economic development, reduce legal ambiguities, and increase indigenous self-sufficiency. These agreements clearly lay out the responsibilities for public and indigenous governments, and define the modern relationships between them. Our interest and priority as a public government is in ensuring that our residents have fair and equitable services, no matter where they live or what indigenous government they may be a part of.

One of the distinctive aspects of the Northwest Territories is the central role of indigenous people in our society. It is important to understand that the GNWT has evolved alongside the negotiation of aboriginal rights agreements. The vision that established the GNWT saw a future where the public government and indigenous governments worked together to meet their respective priorities. Our government has always existed in the context of indigenous rights and been deliberately shaped by a determination to respect and recognize those rights.

• (1150)

The GNWT supports self-determination of indigenous people and indigenous governments in the Northwest Territories and has developed as a public government with self-government in mind. Our system of partnership and public governance in the Northwest Territories was designed to ensure that indigenous views and priorities are reflected in public policy decisions and the design and delivery of public programs and services.

Indigenous people in the Northwest Territories participate in both public government and indigenous government in implementing regulatory frameworks and in building capacity in communities. Twelve of the 19 members of the legislative assembly today are indigenous, including five of seven cabinet ministers. Every premier since division of the territories in 1999 has been Dene or Métis, including me. Before this division, only two non-indigenous people have been premier or government leader.

Settled claims have established new, unique institutions of public government that guarantee indigenous governments' rights to participate in decisions about land and resource development. The Mackenzie Valley Resource Management Act, passed as part of the implementation of settled claims in the Northwest Territories, provides that indigenous governments have the authority to name members to the land and water boards that oversee decisions about land and resource development here.

I need to be clear that this does not mean indigenous people have a right to be heard by decision-makers. It means that, in the Northwest Territories, indigenous people are the decision-makers. This unified approach, unique to the Northwest Territories, was not an accident; it was a deliberate choice to ensure that indigenous rights are respected here in a territory they have called home for generations. Indigenous governments across the Northwest Territories own economic development corporations, which are active players in important projects that contribute to our GDP. Close collaboration with indigenous governments and corporations is one way the Government of the Northwest Territories is working toward reconciliation.

The Northwest Territories is in a more advanced place than many parts of the country in the area of settling claims and integrating programs and services for indigenous residents. Our system is integrated and considers the indigenous perspective as part of delivery. The conclusion of aboriginal land resources and self-government agreements has remained a priority for the GNWT. We are as eager as the federal government and indigenous governments to move forward with negotiations and implementation of self-government.

Canada has introduced several new approaches into negotiations. While on the face of it, these approaches should encourage

innovative negotiations and more meaningful agreements, we have significant concerns. We understand the interests of all parties in advancing agreements. However, we feel that a lack of clarity in Canada's new approach is delaying rather than advancing processes—ambiguity around the newly released principles and other approaches that Canada seems to have discussed with indigenous organizations but haven't been explained to the Government of the Northwest Territories or other provincial or territorial governments. This is creating confusion and perhaps raising unrealistic expectations.

For example, Canada is now open to wide-ranging interest-based discussions, blending the specific claim and comprehensive claim models, broadening negotiations beyond existing agreements, and may no longer seek certainty in agreements. These developments run the risk of introducing delays into already lengthy processes as the parties assess new information, returning some negotiations to ground zero, wasting time and resources discussing things that are unlikely to be approved by any government, introducing uncertainty about the mechanics of implementation, and removing the ability of all governments to rely on final agreements. It's my understanding that the new principles have not been accompanied by changes to negotiating mandates, leaving parties to negotiations to try to guess at intents.

We are also concerned that Canada is in effect changing the rules of the game in the middle of the game. Indigenous governments with finalized agreements made calculated choices under the existing policies and rules. Clarity is required as to whether Canada will reopen negotiations in areas with settled agreements. Inequity may be created by allowing for increased flexibility only for those who have not been able to achieve agreements in the past.

• (1155)

Starting in the 1960s, the federal government began transferring program responsibility from Canada to the GNWT. The most recent of these devolutions was the transfer of responsibilities for lands, water, and resource management.

This last devolution was unique in that negotiations included not only Canada and the GNWT, but also indigenous governments. All indigenous governments were invited to the table, with most of them agreeing to participate.

Another unique feature of this last devolution was the creation of the intergovernmental council and the sharing of resource revenues. Now, in addition to the resource revenues included in settled rights agreements, the GNWT also shares 25% of the resource revenues from public lands with the Northwest Territories indigenous governments who signed the devolution agreement.

Aboriginal rights agreements affect every part of the way indigenous and public governments administer the Northwest Territories: the way we manage our lands, the way we deliver social services, the way we raise revenues, and the way we govern our communities.

Changes to the approach to new agreements create many questions for our government about how they will fit into our existing governance structures. This also creates a different kind of uncertainty for us. Our first priority is to provide continuous service to all our residents, with changes to those services focusing only on improvement.

We also want to make sure that existing work, both at the territorial government and at the community level, is not lost with change. As Canada considers changes to financial relationships, it is important that the unique program and service delivery models of the Northwest Territories be considered and, in our view, preserved.

We will continue to work within our government to advance self-government and support indigenous populations beyond negotiations, as well. The GNWT also continues to implement the relevant calls to action of the Truth and Reconciliation Commission, and support other efforts to address social and economic gaps between indigenous and non-indigenous northerners. We will also continue to engage with the federal government, with provinces and territories, and with indigenous governments as work around indigenous relations in Canada evolves.

Was that the bell?

• (1200)

The Chair: Mr. Premier, we are being very generous. You have already passed the bell, but keep going.

Hon. Robert R. McLeod: Okay. I'm just about done.

In summary, we are pleased with the overall direction the federal government is taking in terms of reconciliation. We are, however, concerned that Canada is forgetting the Northwest Territories when it is making national policy. Our current framework of public government working in collaboration with future indigenous self-governments, with clear processes for taking on authority and transition funding, is one that should be supported, not torn apart.

Our framework for sharing resource revenues is intended to support indigenous governments, including building capacity to take on programs and service delivery. It too can serve as a model for the federal government when it looks to issues such as its own resource revenue sharing.

Reconciliation requires a national dialogue to ensure that, as a country, we are moving forward together. The same is true of the Northwest Territories. This means both collective action and collaborative decision-making about our future. We strongly urge Canada to support that national discussion and not to make those critical decisions without collaboration with its partners and the provinces and territories.

Thank you, Madam Chair.

The Chair: Thank you.

Questioning now goes to the seven-minute round.

We will start with MP Michael McLeod.

Mr. Michael McLeod: Thank you, Madam Chair.

Thank you, Mr. Premier. I am glad you took the time to come and present to us. We heard from many of the indigenous governments

this morning. Unfortunately, we didn't have anybody here from the Dehcho or the Akaitcho. We heard many issues being brought up, and many challenges that the indigenous governments are facing.

Having discussed this many times with some of the indigenous governments that haven't settled yet, I know they are concerned about the comprehensive claim policy. They are concerned about the self-government policy, and they feel it's outdated. We heard this morning that the models and the policies are outdated. We also heard that maybe it doesn't meet the United Nations declaration.

During my time in the Government of the Northwest Territories, we always raised the fact that the mandate was getting to be a bit old, and it presented some challenges when we tried to move forward, especially with some of the indigenous governments that hadn't made significant headway. It didn't give us a lot of flexibility.

We are now reviewing, as a committee, the comprehensive land claims agreements, the specific claims, and the self-government policy. Is there anything you could recommend that would help make things a little easier? What recommendations would you make to the government's policies, to the government's approach? Is there anything you could recommend?

Hon. Robert R. McLeod: Thank you very much for the question, because it was very difficult for us. We recognized that essentially there were three areas in our mandates that we had to revisit, at least for the Northwest Territories.

First and foremost, one of our mandates was that we had to adhere to what we referred to as the "failed" Dene-Métis comprehensive claim, where we had to live within the parameters of that claim. The second one, because of the fact that we had a number of settled land claims, was that we also had to live with population numbers from 25 years ago. Obviously, the population numbers have changed. The third one was that we didn't know, if we increased the numbers in the settled land claims, whether we would have to revisit them.

I guess we've taken a leap of faith where we're trying to be more flexible. With the ministerial special representatives, I think it really pointed a way forward where it directed us to work more closely to help with facilitation among the different aboriginal governments that had significant differences, to try to bring certainty and finalize some long-standing land claims that had been negotiated for over 25 years.

My only recommendation would be to revisit the mandates and have some flexibility, recognizing there are existing claims that have already been settled, existing self-government agreements.

• (1205)

Mr. Michael McLeod: My next question is again on something we heard this morning regarding implementation of some of the agreements. We heard from one of the indigenous governments that has settled self-government. They're indicating that because it's a joint arrangement with the territorial government, until the Government of the Northwest Territories has adequate resources in their coffers, they are not interested in drawing down, because there is nothing there. I think housing was the example.

So we are negotiating all these agreements, and trying to get other indigenous governments to come to the table, yet that could end up being an empty pot. It's still dependent on the federal government to honour some of these arrangements, but the fiscal agreements don't seem to be worded that way.

Hon. Robert R. McLeod: I think housing is a good example. Somebody asked the question in our legislative assembly the other day. It was that the funding flows through the GNWT, but the housing money from the federal government is very minimal. I would agree with that assessment, and I think that if the federal government wants to make more housing money available, incremental funding would be very good.

I think probably we all know which government you're talking about here, because only one government has the self-government agreement. I think they would have to take that into consideration before they draw down programs.

The Chair: You have about a minute left.

Mr. Michael McLeod: One quick point that I heard today is that the treaties and the modern treaties need to be recognized as being on par with other international treaties. Would you agree with that statement that was made this morning?

Hon. Robert R. McLeod: We support all treaties. We do not abrogate any treaties, so we certainly take that into consideration. We certainly respect and honour all the treaties. I think we were one of the first jurisdictions to pass a motion in support of UNDRIP as well.

The Chair: That concludes your time.

We're moving on to MP Viersen.

Mr. Arnold Viersen: Thank you, Madam Chair.

I really appreciate being here today and in your presence, sir.

One of the things you mentioned in your statement was the idea of maybe moving targets. We heard earlier today that one of the earliest comprehensive land claims agreements was settled in 1991. Could you elaborate on how things have changed since 1991?

I get the impression that there is not an incentive to settle the claim, because since 1991, people have learned, oh, we can do this, or we can do that and that. The claims as we go further along are perhaps a better deal, or are they changing things to make it a worse deal? I don't know which way it's going. Changing things basically means, well, we'll just wait for a better climate to make an agreement.

I think that's what you were saying. Could you address that a little?

•(1210)

Hon. Robert R. McLeod: When you look at the first claim that was settled, with the Inuvialuit land claim, I think you will see that this was probably because we were moving from the failed Dene-Métis comprehensive claim. The Inuvialuit claim was the first land claim settlement in Northwest Territories, so they probably benefited from that. I think if you look at the Gwich'in and the Sahtu, you see it was probably not as rich, maybe. I'd have to go back to confirm that. The Tlicho took a different approach, where they took a combined land claim and self-government agreement.

I guess whether it would benefit those who have been negotiating the longest remains to be seen. I think for every aboriginal government that has settled land claims, it's my understanding they all have a disclaimer, at any rate, whereby if anybody gets a better deal they'll get the same thing. It was the same thing when we negotiated devolution. We had a better deal than Yukon, so Yukon got the same deal. I guess if anybody gets a better deal, it would benefit others who have settled, I would think. But that remains to be seen.

Mr. Arnold Viersen: So it's not necessarily that there is that incentive to hold off for necessarily a better deal because somebody in the future—

Hon. Robert R. McLeod: Although, if some governments have been using that as a negotiating tactic, well, I don't know for sure.

Mr. Arnold Viersen: Interesting. You said there are still three outstanding land claims. Are you convinced that's going to be the extent of it? You said it seemed to start out as one and now it's three. Was there any indication that it would fragment into even more land claims after that?

Hon. Robert R. McLeod: We always knew there were seven. There are three outstanding ones that have not been settled. If others can make a case that they are entitled to be recognized as an aboriginal government with their own negotiating table, that remains to be seen.

Also, aboriginal governments from other provinces that have had historical aboriginal use and occupancy have been successful in negotiating claims in the Northwest Territories. I don't know. It all depends on who the federal government recognizes and agrees to have at the negotiating table.

Mr. Arnold Viersen: From your perspective, overall, have comprehensive land claims been a positive thing for the Northwest Territories?

Hon. Robert R. McLeod: In my view, they've been very positive. I think if you look at our economy, if you look at the settled claims, those areas that have had settled claims have the resources and the capacity to be very successful in a strong economy. Here in the Northwest Territories when you look around, the most successful businesses are aboriginal businesses.

Mr. Arnold Viersen: Thank you.

The Chair: The questioning now goes to MP Anandasangaree.

Mr. Gary Anandasangaree: Thank you, Madam Chair.

Mr. Premier and Mr. Deputy Minister, thank you for being here.

I want to start off by saying that you do have a great representative in Ottawa. He fights for N.W.T. each and every day. Having been on the committee with Mike for the last two years, I know that he's been absolutely consistent in his advocacy.

I do want to pick up on a couple of points, most notably with respect to certainty and finality of claims. I know you've expressed some concerns, and I know when we've talked to other communities over the past few weeks that's something that has become a very sore issue. That's one of the reasons they've cited as...the comprehensive claims taking so long to come to completion, some as much as 40 years.

I think the approach that appears to have some consensus is an evolutionary approach, a rights-based approach, where it's not final and final agreement but an agreement where it evolves over time as issues change. I want to try to reconcile this with your concerns about it causing delays and potentially, for those who are holding out the longest, getting better agreements. I don't know if you can comment on that.

• (1215)

Hon. Robert R. McLeod: Well, I guess with regard to certainty, if you talk to industry, there's the fact that very large parcels of land are inaccessible because of negotiations. We have large tracts of land on which we have land withdrawals. We have "land lease only" policies in certain areas with that, and also there are large amounts of protected area. I think 57% of the Northwest Territories is protected-area already. It's very hard if you're limited in the areas that are open for development, so that part of it is a concern.

As for whether future negotiations can result in better deals, I have no problem with that. It's up to the negotiating prowess, I guess, of the different negotiators.

Mr. Gary Anandasangaree: With respect to overlapping claims—that's something we heard quite a bit about this morning—can you give us an indication of your government's position vis-à-vis overlapping claims? As others have suggested, is it the federal government's responsibility or is it up to the different, and what may sometimes appear to be competing, claims for the nations to work out? Is there a hybrid solution that will require all parties to be at the table?

Hon. Robert R. McLeod: I think to date the governments have basically left it to the aboriginal governments involved in the competing claims to work it out amongst themselves, and I think that's worked well for the most part. For those areas that have not settled as of yet, our ministerial special representative has indicated, in his view, that the governments had to play a more active role to help facilitate some solutions and try to work together with the aboriginal governments to resolve some long-standing issues. I think we're prepared to do that, because I think it's in everybody's interest to settle all the land claims and self-government agreements in the Northwest Territories.

Mr. Gary Anandasangaree: Premier, I know the issue of housing has come up a number of times, and MP McLeod has brought it up on numerous occasions. Can you maybe give us a closer sense of how the federal housing money translates into actual housing for the communities, or some of the challenges you face in implementing federal government policy with respect to housing?

Hon. Robert R. McLeod: I think there are two aspects to that. One is the amount of money that our government has for housing. Our minister of housing answered a question about the federal government having provided \$8 million of that for aboriginal housing, and our government having provided \$92 million.

If that money is taken away and given to aboriginal governments, it's not going to resolve.... It's a problem. We have a problem now, and if you take that money and transfer it to aboriginal governments we're still going to have a problem unless the federal government invests more money in housing.

We saw the division of Indigenous and Northern Affairs into two departments. When Minister Philpott was asked that same question, she pointed to the Inuvialuit—i.e., we took \$50 million and we gave it to the Inuvialuit for housing. Well, the main interest of the Inuvialuit was to build the houses. They didn't have money for operation and maintenance, and they didn't want to manage the buildings, so they turned around and sold them back to us. We are left with finding O and M and resources to manage the buildings.

I think that worked out very well. I think that for both the Inuvialuit and our government, it's a win-win. I don't know if that will happen in every instance, but certainly I'm supportive of incremental money for housing. If it means more housing for aboriginal people in the Northwest Territories, I'm all for it.

• (1220)

Mr. Gary Anandasangaree: Thank you, Premier.

The Chair: The questioning moves to MP Cathy McLeod.

Mrs. Cathy McLeod: Thank you, Madam Chair.

Hopefully, with my last name, I get honorary community membership. I feel surrounded by family here.

Hon. Robert R. McLeod: You can join the McLeod party.

Voices: Oh, oh!

Mrs. Cathy McLeod: I brought this question up with past panels, and it is related in many ways, although perhaps one step removed. Moratoriums on offshore, designation of park space, and implementation of carbon tax are pretty significant policy decisions that appear to have been quite unilateral. As I asked those questions to some of the indigenous leadership, they weren't part of discussion or knowledge about those particular policy decisions. They heard after the fact or right before the fact.

Did your government have a heads-up and good consultation before those policy implementations? It certainly has a significant impact for the N.W.T.

Hon. Robert R. McLeod: I mean, I've been very public about it. The chair of the Inuvialuit Regional Corporation and I both found out about it two hours before the moratorium was announced. That was the extent of it.

Mrs. Cathy McLeod: There was a significant potential impact in terms of the prosperity of the north, and no ability to have a conversation or input.

Hon. Robert R. McLeod: I guess I should point out that it is a permanent moratorium in the Beaufort and it's reviewed every five years. At the time that the moratorium was announced, there was \$2.6 billion of work commitments in the Beaufort Sea. Since then we have received letters from those leaseholders that they're being approached by the Government of Canada as to what it would take for them to give up their leases. So not only is there a moratorium, there's an effort to have the existing operators move out of the Beaufort.

Mrs. Cathy McLeod: I understand that the transfers to the territorial governments were reduced by about \$91 million, but then they were lifted a bit. Was that because there was a refocusing of the money to support perhaps other areas? What was behind that transfer reduction that you saw to the tune of \$91 million, and then, as I say, I believe they lifted it again? Was it about supporting new governance structures, or...?

Hon. Robert R. McLeod: I'm not sure about the \$91 million. There was \$26 million for transition. After transition was over, that would have fallen off.

The other part that was reduced substantially was the resource revenues, because since devolution we are now in a situation where we don't have one molecule of oil or gas being produced in the Northwest Territories. We've gone to zilch in that time.

Mrs. Cathy McLeod: Okay.

One thing I'm curious about, because it's a relatively small population, is whether health care has been part of some of the agreements. How is the health care piece working, or do you continue to be responsible for the provision of all health care services?

• (1225)

Hon. Robert R. McLeod: Before the devolution of health care services, the Government of the Northwest Territories had two hospitals, the Stanton hospital and the Hay River hospital, which was run by a religious organization. All the health services were provided by Health and Welfare Canada until I think the mid-1980s, when devolution occurred.

The Government of the Northwest Territories is responsible for providing health services to all residents of the Northwest Territories. We send a bill once a year to Health Canada for providing health services to aboriginal people. Essentially that's how it works, in addition to the uninsured health services that we deliver on behalf of the Government of Canada.

Mrs. Cathy McLeod: That is different, perhaps, than an area such as British Columbia, where part of the comprehensive agreements have included chapters on health care, and in the case of British Columbia, the First Nations Health Authority has assumed some, but not all, of the responsibilities. In your case, you maintain full responsibility and bill the federal government. Are there any issues in terms of the non-insured health benefit component?

Hon. Robert R. McLeod: We have to get approval from the federal government for dental services or eyeglasses. If those exceed the limit parameters by, I believe, 2%, then we would have to eat what we weren't reimbursed. It works out to about \$1 million a year.

We also provide Métis health benefits, which are not reimbursed by the federal government. We're waiting to issue a \$25-million bill to somebody once the Daniels case is finalized.

If federal money for health care is transferred to indigenous bands, I guess then we have to figure out how we're going to operate. If we don't have money to operate a hospital, for example, how would we operate? Would it be like the United States, where if we're going to provide services, you have to show how you're going to pay for them before you come to the hospital?

Those are all unanswered questions.

Mrs. Cathy McLeod: It wouldn't appear to make economies-of-scale sense, especially in such areas as health care, for there to be multiple deliverers of the service, then, through different agreements.

Hon. Robert R. McLeod: We're only 45,000 people. We're spread out over 33 communities. That's the way the system was fragmented. Now we have an integrated health delivery system. If we go back to a fragmented system, then we don't have economies of scale. With only 45,000 people, we don't have a lot of economies of scale to begin with. That's a concern.

Mrs. Cathy McLeod: Thank you.

The Chair: Questioning now moves to MP Harvey.

Mr. T.J. Harvey: I want to touch on something that I noticed in your presentation. Mr. McLeod and I sat on the natural resources committee together earlier on. In your presentation, you touched on government's inability to provide certainty. I'm wondering if you could comment on how that should look—government trying to strike a balance between ensuring certainty, but ensuring certainty through recognizing that we need to look after the environment. We heard from a witness this morning who said they would much appreciate a meeting with the ministry of environment, and making sure that we do our best to recognize the individuality of indigenous nations and also the territorial government.

How do you see that? How do you create a balance that achieves all those things?

• (1230)

Hon. Robert R. McLeod: The policy of our government is to have balanced development whereby we have development but we make sure the environment is protected as well. We do so by consulting. We consult, and then we consult, and then we consult. We're always consulting. We have one of the most rigorous regulatory systems in Canada, I would say, whereunder to move anything we have to seek some environmental approval. I think we're very well protected in that area.

Mr. T.J. Harvey: You were speaking about health care earlier. You mentioned that you have 33 communities and 45,000 people. Is that right?

Hon. Robert R. McLeod: That's right.

Mr. T.J. Harvey: It's very similar to my riding, actually, only you're spread out over a lot vaster territory. Do you think there are some likenesses to large rural ridings in the way that provincial governments deliver health care in those ridings? Do you think there's relevance there to what you're trying to do?

Hon. Robert R. McLeod: Only if your rural ridings have no roads and you can only get there by air, or maybe by boat in the summertime; I think there would be some relevance.

Also, probably similar to your riding, we have difficulty attracting health professionals, not only doctors and nurses. We've had to make some very unique arrangements to provide health services to some of those remote communities.

Mr. T.J. Harvey: In terms of land claim issues, we've heard a vast number of opinions from across the country, throughout the study. I think they are all relevant to the circumstance that they are in. We even heard some differences of opinion this morning from witnesses in terms of overlap of claim. What are your thoughts on overlap of claim? What's the best way to address overlap of claim between indigenous nations?

Hon. Robert R. McLeod: Well, I think the best way is to get everybody into a room and keep them there until they come out with a solution. I think that seems to have worked out the best in the past. I think that with aboriginal rights, if both sides possess rights, then it's very hard to resolve it with some negotiating methods such as arbitration or mediation, and so on. That may lend itself to a decision, but I think for the most part, to get both parties and work with them or facilitate discussions to come to a resolution probably still works the best.

Mr. T.J. Harvey: The reason I asked the question is that in the previous panel, we had two communities that have a conflicting boundary issue. It's an issue that affects them. Mostly they seem to be very amicable about it. They weren't hostile about it, but it's centred around the economic development opportunities of that conflicted area. So in terms of questions around the development of those opportunities, it lends itself to uncertainty, too. That's the reason I asked the question.

Hon. Robert R. McLeod: Well, I think in that sense we've been talking about generalized interests where everybody can share. When it comes to wildlife issues, I think it gets a little more complicated.

Mr. T.J. Harvey: Okay. Thank you very much.

The Chair: Everyone has now had an opportunity, so typically the questioning would go back to the Conservative side. Is there interest in doing another round?

Mrs. Cathy McLeod: How much time do we have?

The Chair: We have about 10 minutes.

• (1235)

Mrs. Cathy McLeod: Then absolutely.

The Chair: So one of the McLeods wants to ask—oh, two McLeods. It is a family thing.

MP Cathy McLeod.

Mrs. Cathy McLeod: Thank you, Madam Chair.

Again, I know that things are always unique in terms of how the natural resource revenue-sharing goes. Can you just refresh me in terms of your devolution agreement? How much is direct? Does the federal government still take their piece of the pie? How is your devolution agreement set up around the sharing of resource revenue?

Hon. Robert R. McLeod: We collect 100% of the resource revenues, and we remit the federal portion to the federal government. The remainder is split. We put 25% into a heritage fund, and we give 25% to the aboriginal governments that have signed on to devolution. The aboriginal governments that have signed on to devolution have worked out a formula that they have all agreed to, and the remainder stays with our government.

Mrs. Cathy McLeod: Unlike the provinces, I think the federal government still takes a pretty significant cut.

Hon. Robert R. McLeod: Yes. I think it's about 75% or something like that...or 50%, sorry.

Mrs. Cathy McLeod: That's still pretty significant.

You have a structure for the devolution. How does that intersect with...? Let's say there's been agreement to proceed with a mine on someone's territory. How does that all intersect together?

Hon. Robert R. McLeod: Generally, for a mine, because of the fact that they have invested significant funds, it's usually at least three years before they start paying resource royalties, because they recover all of their costs for building a mine. Then, if they do invest in any infrastructure, well, that reduces the resource revenues as well.

Mrs. Cathy McLeod: If a community has not been part of a devolution agreement, but a mine is going to be built on their territory, do they have a separate and side agreement?

Hon. Robert R. McLeod: Well, through the regulatory process, they typically would have an IBA, an impact benefit agreement, and through that, they negotiate with the developer or the proponent. We don't have access when it's negotiated at that level.

Mrs. Cathy McLeod: The issue of transboundary came up earlier, and we heard about the transboundary between the Northwest Territories and Yukon. You also talked about transboundary issues with Manitoba and Saskatchewan. Those must be particularly challenging issues to resolve. Is there a different way that those are approached? Could you talk a little bit about the transboundary issues and resolution?

Hon. Robert R. McLeod: In the two cases there, we recognized historical aboriginal use and occupancy, and we've suggested that it should be reciprocal. If land is taken away in the Northwest Territories for aboriginal governments in the provinces, they should do the same for aboriginal governments in the territories that have traditional use and occupancy in other provinces. We think it's only fair that it should be reciprocal.

Mrs. Cathy McLeod: And that's not the case, then?

Hon. Robert R. McLeod: No, it hasn't been the case.

Mrs. Cathy McLeod: Thank you.

The Chair: The questioning now goes to the other MP McLeod, Michael McLeod.

Mr. Michael McLeod: Thank you, Madam Chair.

There are a couple of things. First of all, the devolution agreement and IBAs are two different monies.

Mr. Robert R. McLeod: Yes, that's right.

Mr. Michael McLeod: So it's like comparing apples to oranges. The devolution agreement doesn't include all the communities, so there are a lot of communities that are still not signed on.

We've heard throughout our presentations today frustration with the process, frustration with implementation, and frustration dealing with the federal and territorial governments, and there were some good suggestions. I think your government does some of what I'm going to suggest.

I think it was the Gwich'in who suggested that there should be an oversight committee that monitors how the claims are funded and implemented. I think your government does some of that through bilateral discussions and talks on an annual basis, but would you agree that it needs to be done with both governments so that some of the challenges that the aboriginal governments are bringing forward here today could be dealt with?

• (1240)

Hon. Robert R. McLeod: I think we have that in every instance, implementation committees where there are land claims settled. There exists such a committee, and if that doesn't work out, then there's access to arbitration. Perhaps the frustration is—

Mr. Michael McLeod: Almost every government that came forward today talked about their frustration. What do you do with it when it comes to you? Do you just settle it in the courts—arbitration? Where is the federal government in this? Are they in the mix? Is there a resolution?

Hon. Robert R. McLeod: It involves the federal government, the territorial government, and the aboriginal government. If there's frustration, perhaps it's not at a high enough level. Typically it's one of our implementation directors who is on that implementation committee. Where there are differences, it goes to an arbitrator, the arbitrator makes a ruling, and then whoever put it forward is expected to live by the ruling. In some cases, nobody follows up on it because they don't agree with it.

Mr. Michael McLeod: I have one last thing. Today we heard from a number of people who said that, even though there's a new government, nothing has changed. Would you agree with that statement? Are we still moving forward with the old direction of the previous government, the previous mindset, and the previous way of thinking, so that, really, nothing has changed on the ground? I hear it from almost every aboriginal government. They're expressing a lot of frustration.

Hon. Robert R. McLeod: I wouldn't say that nothing has changed. As I said, I think the new government is doing something right. What we suffer from is that we don't know where the government is going, and for a lot of the areas that they've indicated they want to go to, I think it would help if we had some input and if we had a better understanding of where the government is intending to go.

The Chair: MP Harvey.

Mr. T.J. Harvey: I have one quick question on something that arose from Mr. McLeod's questioning. He raised an interesting point, and I think you did touch on it. Let's say you have an indigenous

nation, an indigenous community, and there's an overlapping issue between two communities, or there's another issue just with the boundary in general and the indigenous government agrees and settles that issue. Let's say a claim is settled, but there is still a portion of that community that doesn't feel the same way. Let's say there's a group of band mothers or hereditary chiefs who disagree with the issue. What's the formal process to address that? How can that best be addressed from a land claims standpoint?

Hon. Robert R. McLeod: We have a number of examples of exactly where that's happened. We had two land claims settled, and in terms of the boundaries, I guess whoever surveyed the boundaries surveyed them inaccurately, or they had two different boundaries where one group feels they've been—

Mr. T.J. Harvey: Yes. I guess I'm speaking—

Hon. Robert R. McLeod: —losing land, and others.... Both land claims have identical processes, and a committee gets together to resolve the issue, but the frustration is that it takes time.

Mr. T.J. Harvey: Yes, and I guess I'm speaking specifically to when the two indigenous governments both agree on the issue of what the boundary is, but there's an underlying subset of people within one or both communities that disagrees with the leadership's decision on what the boundary should be. How do you address that?

Hon. Robert R. McLeod: I guess we would probably hire a....

• (1245)

Mr. T.J. Harvey: Mediator?

Hon. Robert R. McLeod: Yes, a mediator or somebody to find out the issues and make recommendations to all the parties.

Mr. T.J. Harvey: Perfect. Thank you.

The Chair: Anybody else...?

That basically concludes our questioning time.

You've been very patient and generous with your time, Mr. Premier.

Hon. Robert R. McLeod: Thank you very much.

Thank you for the opportunity to present to the committee. I think it was very insightful of your committee to come to the north. I don't know how many other places you have been to, but I think it's a very good way of accumulating knowledge and to find out at first hand from some of the people what all of the different issues are. There are a lot of issues in this case, so I appreciate it. Thank you very much for this opportunity.

The Chair: Thank you very much.

We're off to the friendship centre and then a tour of the community. We've all expressed the desire to see more of the north and indigenous communities. This is a committee that insisted that we reach out to the country and not sit in Ottawa in hearings. We appreciate your time.

We thank Yellowknife for their hospitality. We've enjoyed it very much. It's back to the bubble tonight.

The meeting is adjourned.

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