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CONFIDENTIAL

FEDERAL-PROVINCIAL SUB-COMMITTEE ON THE
CONSTITUTION AND CANADA'S NATIVE PEOPLE

Statement by Charlie Watt, Co-Chairperson,
and John Amagoalik, Acting Co-Chairperson,
on behalf of the Inuit Committee on National
Issues.

August 26, 1980

Ottawa

Statement by Charlie Watt, Co-chairperson, and John Amagoalik, Acting Co-chairperson, Inuit Committee on National Issues to the Federal-Provincial Sub-Committee on the Constitution and Canada's Native Peoples - August 26, 1980, Ottawa.

Mr. Chairman, Honourable Ministers, Colleagues:

John Amagoalik and I, as Co-chairpersons of the Inuit Committee on National Issues (ICNI), are pleased to be here on behalf of Canada's Inuit to continue our involvement with federal and provincial governments in regard to constitutional reform. For those of you who may not be familiar with ICNI, we have included a more detailed description in Appendix I.

There are approximately 25,000 Inuit inhabiting Canada's north. In our region which we call our homeland, we constitute a substantial majority population. Moreover, there are other Inuit in the circumpolar region of which the Canadian arctic is an integral part.

Last month in Greenland, Inuit of Alaska, Greenland and Canada met and established a Charter for an international organization of Inuit called the Inuit Circumpolar Conference. This organization is dedicated to the protection and promotion of the common interests of all Inuit. John Amagoalik, who is with me, is one of the Canadian executive members of that organization and Mary Simon, who is behind me, is the other Canadian member.

Inuit have lived for thousand of years in what is now northern Canada. This fact is often used by Canada when asserting Canadian sovereignty in the arctic. Yet, despite the huge area we inhabit, Inuit have little or no political representation in Canada's Parliament or in the Québec and Newfoundland Legislatures. Generally, we have no political structures

which we in fact control for the running of our own lives. Even in northern Québec, where Inuit of that region have negotiated a regional government as part of their land claims settlement, Québec has been reluctant to decentralize control over the many administrative matters affecting that region and its inhabitants, contrary to the express provisions of the James Bay and Northern Québec Agreement. These and other matters which we will discuss with you today impress upon us the need for constitutional reform.

Although additional meetings will obviously be required in the future, we would like to take this opportunity to put our views on record and to obtain some answers from the ministers about the timetable and agenda of our work in the year ahead.

Eighteen months ago, in February 1979, members at the First Ministers' Conference agreed to place the item "Native Peoples and the Constitution" on the agenda of subsequent federal-provincial constitutional talks. On December 3, 1979, the Steering Committee of the CCMC met with native leaders from the National Indian Brotherhood, the Native Council of Canada and the Inuit Committee on National Issues to initiate native participation in constitutional discussions with governments. The ministers present at that time expressed a positive outlook on the process and the structure of future discussions with the native leaders. Moreover, it was generally understood that in order to ensure effective native involvement in the constitutional reform process, our participation with governments both at the sub-committee level and at the First Ministers' Conference would be essential.

Soon after the 1980 federal election, a summer schedule for federal-provincial constitutional meetings was undertaken with a renewed sense of urgency and a First Ministers' Conference was slated for this fall. Based on past assurances by the Prime Minister of Canada and certain federal and provincial ministers, the Inuit of Canada through ICNI, expected to attend and actively join in discussions at the First Ministers' Conference this September—at least in regard to the item "Native Peoples and the Constitution". However, on August 11, the Right Honourable Pierre Elliot Trudeau informed us by letter that Inuit leaders were invited to the First Ministers' Conference solely as observers. There does not appear to be an item on the Conference agenda, as previously promised, relating to native peoples and the constitution.

It is our understanding that one of the purposes of the meeting today is to hear the respective views of the national native organizations in regard to the 12 constitutional items discussed by federal and provincial governments this summer. We will gladly indicate to you today our preliminary views within the time constraints of this short meeting .

In connection with the 12 items, ICNI experienced some difficulty in obtaining background information with respect to federal and provincial government positions to date. We are pleased by the federal and Québec government cooperation in regard to present draft papers and wish to emphasize that timely access to such position papers is crucial if ICNI is to work together with governments in the constitutional reform process. Without such position papers, we may not be aware how various government positions may affect Inuit rights and interests. In addition, Inuit position papers in this regard may not be sufficiently integrated with federal and provincial positions if we do not have the benefit of taking into account such government positions.

The following represents therefore our preliminary views as to how native peoples, particularly Inuit, are directly affected by the 12 constitutional items discussed by governments this summer. We have also included as Appendix II the list of constitutional items ICNI submitted at the meeting with the Steering Committee on December 3, 1979.

1. Statement of Principles

It is difficult to comment on the federal government's statement of principles without knowing what native rights and interests will be enshrined or protected in Canada's Constitution. However, we would expect adequate reference in the statement of principles to our special status as original inhabitants from which we derive our aboriginal rights and which is the basis for our unique and historical relationship with the federal government. The statement of principles should also refer to the intention to enshrine the rights of native peoples in the Constitution. In addition, it must recognize the need to protect and promote Inuit values and goals through our own distinctive language, culture and society. At the same time, such Statement must recognize a need, essential to Inuit pride and identity, that Inuit help shape social, economic and political aspirations of Canadian society.

We support Prime Minister Trudeau (and Mr. Claude Ryan, leader of the Québec Liberal Party) in opposing the inclusion of any false concept of dualism in the Constitution which may have the effect of undermining the status and interests of Canada's native peoples. We also support the federal government in opposing any specific mention of a province's right to self-determination in the Constitution. If a province such as Québec is specifically given the constitutional right to secede from the Canadian federation the Inuit of northern Québec must have a similar right of self-determination in their territory which has its own special significance and history.

2. Charter of Rights, including language rights

Native rights would have to be built into the federal draft proposal for a Charter of Rights on a number of areas in order to adequately protect Inuit culture and to provide for its continued development. Such areas would include but not necessarily be limited to the following:

- a) entrenchment of the concept of aboriginal rights as a fundamental freedom unique to indigenous peoples (see Appendix III);
- b) Adequate provision for the collective and individual nature of Inuit property rights;
- c) reasonable limitation to mobility rights so as to adequately protect Inuit communities and societies, particularly in the face of large-scale northern development activities;
- d) native language rights in the areas of education, health and social services and criminal justice; in hearings of a judicial, quasi-judicial, or administrative nature if such hearings are primarily related to native peoples; and in regard to laws which are of special significance to native peoples, such as those implementing settlements of aboriginal claims;
- e) adequate provision for affirmative action programs.

3. Dedication to Sharing and/or to Equalization; the Reduction of Regional Disparities

In regard to regional disparities, there are specific problems related to native "environments" which, in the present context, refers to our vast northern regions.

As the substantial majority population, our concerns have at least two dimensions.

First, it is hardly our concept of "sharing" that northern resources be increasingly exploited by others while the primary "benefits" which we enjoy are the adverse social and environmental impacts from such activities.

Second, we cannot accept that revenue-sharing and the reduction of regional disparities be considered solely on a provincial rather than on a regional basis. Nor can we support unconditional equalization payments to the provinces.

Provincial commitments to diminishing regional disparities within the province is not sufficient to ensure that viable programs and services will be implemented in the northern regions inhabited by Inuit. Therefore, we wish to discuss at future meetings regional disparities of particular concern to our northern homeland. We also seek to develop with you concepts or formulas for regional revenue-sharing. It is only in this way that we can positively alter the historical experience in Canada's north, namely the serious lack of both essential services and economic opportunities for northern inhabitants.

4. Patriation of the Constitution (including the Amending Formula)

ICNI fully supports the principle of patriation of the Constitution. However, prior to patriation, ICNI would expect to

participate in the federal-provincial constitutional reform process and to adequately provide for Inuit rights and interests at least on a number of significant items.

In regard to an amending formula, we would as a minimum seek to formalize the principle and procedure for native participation in any future constitutional amendment process. However, with respect to section 91(24) of the BNA Act, which specifically and directly affects native peoples, no amendment should be permissible without the approval of Canada's native peoples.

5. Resource Ownership and Interprovincial Trade

Throughout Canada's history, despite the aboriginal claims of native peoples in Canada, it has generally been an unwritten policy of governments to exclude native peoples from resource ownership. Such practices are regressive and colonialist. They are hardly consistent with the fundamental principles and spirit we are presently attempting to enshrine in Canada's Constitution.

As a very minimum, the Constitution should provide for a commitment by legislatures and governments to provide for some procedure whereby native peoples may obtain rights of ownership of resources. We must also obtain reasonable participation in the management and development of resources in those land and marine areas within Canada which have been used and occupied by us as indigenous peoples. Such rights and interests may be established through settlements of aboriginal claims, where applicable, or through other procedures.

In any event, federal or provincial jurisdiction over natural resources should not be used to unduly affect native rights and interests which often are of profound cultural significance. A commitment should be made to reconcile such native rights and interests with other interests of a federal or provincial nature.

6. Offshore Resources

Although Inuit are generally a coastal people with substantial interests in the offshore of Canada, no settlement of aboriginal claims presently exists in Canada which has settled Inuit aboriginal claims in the offshore area. Due to these predominant pre-existing claims, no transfer of jurisdiction, or other arrangement which may unduly prejudice Inuit aboriginal claims in the offshore, should be made between the federal government and the provinces prior to settlement of Inuit aboriginal claims.

In regard to development of offshore resources, the principle discussed earlier of regional revenue-sharing would also be applicable here.

Another aspect of offshore resources relates to the increasing international regulation of marine mammals and other wildlife whose habitats and migration patterns include offshore areas. Due to the special interests of Inuit in such matters, ICNI will be submitting a position paper in the future to adequately provide for Inuit interests at the international level.

Finally, federal-provincial discussions on offshore resources have implications on federal and provincial participation in coastal zone management. In light of the substantial and unique interests of Inuit, the principle of adequate Inuit participation through appropriate regional bodies must be established in determining any constitutional arrangement in regard to the offshore.

7. Fisheries

Inuit interests in regard to fisheries have been specifically recognized in the most recent federal position papers submitted for discussion in the present constitutional reform process. More specifically, fisheries and other wildlife constitute a vital source of food and nutrition for Inuit, are inseparably linked with Inuit cultural activities, and are an important part

of present and future Inuit local and regional economies. Rights related to fish are also an important aspect of Inuit aboriginal rights. Therefore, any transfer of jurisdiction or other arrangement in respect to fisheries would be carefully examined by ICNI in light of the possible repercussions on Inuit rights and interests.

Some of the principles we have discussed under "Offshore Resources" would also be applicable to fisheries.

8. Powers affecting the Economy

To date, federal-provincial discussions on this subject have focussed on creating an economic union in Canada. Such a union has important implications on natural resources, inter-provincial trade and mobility rights. We have already discussed the areas of natural resources and mobility rights in other sections of this paper.

Due to the divergent positions of federal and provincial governments and since other aspects relating to the economy have not yet been discussed, ICNI must study this aspect further before indicating how Inuit may be particularly affected by government proposals. We will also indicate in the future the nature and scope of Inuit interests in regard to economic development. However, we have already indicated some of our concerns in the discussion on "Sharing and/or Equalization: Reduction of Regional Dispartites".

9. Communications, including broadcasting

In any federal transfers of jurisdiction over certain aspects of communications to the provinces, Inuit interests may be significantly affected. It is generally accepted that communications is an extremely powerful cultural tool and, in this area, native cultures are particularly vulnerable if native people have insufficient rights and involvement in communications

affecting them. Moreover, Inuit access to communications, language rights and section 91(24) of the BNA Act are three important aspects having a direct bearing on native broadcasting and communications. Therefore, in the future, we will be making specific proposals in this vital cultural area.

10. Family Law

Certain Inuit customs and traditions relating to the area of family law constitute an important aspect of Inuit aboriginal rights. Such practices should receive legal recognition and protection and be appropriately integrated with existing (non-Inuit) concepts of family law. As in the case of communications, there are important implications related to section 91(24) of the BNA Act. Therefore, any federal-provincial arrangements in the area of family law must not prejudice the negotiation of Inuit rights and interests in this area.

Prior to submitting Inuit positions in regard to family law, more research and consultation must be undertaken.

11. New Upper House, involving the provinces

The virtual absence of native representation in federal and provincial legislatures is a continuing historical fact in Canada. Such lack of participation in Canada's most basic political institutions has serious implications for Inuit which affect most aspects of our daily life.

ICNI has already initiated research in the area of electoral representation and will be expanding this research to include the concept of special native representation in a new Upper House. In this regard, it will be most important to integrate our needs with any federal-provincial consensus on the nature and powers of any Upper House.

At this preliminary stage, ICNI is evaluating the possibility of native representatives in a new Upper House having a significant role in relation to matters which have primary and direct cultural significance to native peoples.

12. The Supreme Court, for the people and for governments

In the future ICNI intends to carry out research in the area of Inuit concepts and system of justice. Such system would have important implications on the provincial power to establish provincial courts and on section 91(24) of the BNA Act. It may not, however, affect the present federal-provincial discussions on the Supreme Court.

If the Supreme Court of Canada is to be established in the Constitution "for the people", including Inuit, our rights and interests as we have already briefly described today will have to be enshrined in the Constitution. In the absence of such legal recognition, the rights and interests of native peoples will continue to receive inadequate protection from Canada's judicial system, which includes at the highest level, the Supreme Court of Canada.

Conclusion

To conclude, it is evident that there exist complex and significant questions directly affecting Inuit as indigenous people in most, if not all, of the 12 items discussed by federal and provincial ministers this summer. While many of these items overlap with ICNI's own list of items for constitutional reform (see Appendix II), there still remain important additional areas which merit serious discussion. For such reasons, we have been emphasizing adequate involvement of ICNI in the federal-provincial constitutional reform process.

At this time, ICNI believes it is imperative to establish

a timetable and an agenda for subsequent meetings where the substance of Inuit constitutional concerns can be discussed in detail.

Despite the lack of background information and meaningful involvement experienced by ICNI to date in regard to the federal-provincial constitutional talks, we have made every attempt to communicate to you today the preliminary nature of our special concerns. However, it is an easier task to identify issues directly affecting Inuit than to draft and agree upon suitable constitutional amendments. In this regard, ICNI reaffirms its commitment to work together with federal and provincial governments. We remain optimistic that together we can resolve these issues not only to our satisfaction but in working towards a strong united Canada serving the needs of all its peoples and cultures.

Thank you.

APPENDIX I

Inuit Participation in National
Issues: Establishment of an
Inuit Committee on National Issues

INUIT PARTICIPATION IN NATIONAL ISSUES: ESTABLISHMENT OF AN
INUIT COMMITTEE ON NATIONAL ISSUES.

I. BACKGROUND

The Inuit Committee on National Issues (ICNI) was established by resolution at the Annual General Meeting of Inuit Tapirisat of Canada in Igloolik, N.W.T. in September, 1979 (see Appendix).

During the past two years, federal-provincial discussions on constitutional reform and other issues of vital national concern had begun to take place with a renewed sense of purpose. Such discussions clearly affected Inuit interests. The need, therefore, for a special committee with national Inuit representation became evident in order to represent the Inuit of Canada effectively and to participate in these government talks.

II. OBJECTIVES

Three principal functions will be carried out by ICNI, in order to represent Inuit interests adequately and to participate in federal-provincial talks (including First Ministers' Conferences).

The three essential functions include:)1) research; (2) regional Inuit participation in ICNI; and (3) consultation with Inuit communities. These functions are described briefly below.

Due to the complexity of the subject matters as well as the magnitude of the related tasks, substantial funding will be required.

1. Research

- (i) constitutional and other issues of priority to Inuit;
- (ii) constitutional and other issues of national concern (including international issues) affecting Inuit interests discussed at First Ministers' Conferences and other government talks.

The basic purpose of research is: to identify which constitutional and other issues are of priority among Inuit; to carry out adequate research to determine what amendments to the Canadian Constitution or other legislation are required; and to draft suitable amendment proposals for subsequent discussion and negotiation through the constitutional reform process and at other government talks.

A second purpose of equal importance is to study and research other issues slated for discussion on the agenda of First Ministers' Conferences. Inuit must determine in what ways and to what extent the various proposals of First Ministers affect Inuit rights and interests, as well as submit alternative proposals to avoid or minimize adverse effects to such rights and interests. We must also be in a position to discuss and indicate the means whereby decisions by First Ministers on national issues such as energy and the economy can at the same time meaningfully benefit Inuit and the regions we inhabit.

It should be noted that, in the case of most constitutional and other issues of national concern discussed at First Ministers' Conferences, existing studies and research do not for the most part take into account Inuit rights, interests or perspectives.

2. Regional Inuit Participation in ICNI

It is evident both to the federal and provincial governments and ourselves that Inuit priorities, values and perspectives may often differ among the various northern regions inhabited by Inuit. Even in N.W.T. itself, different perspectives naturally arise between the eastern and western Arctic. Moreover, the constitutional and other problems facing Inuit in N.W.T., Quebec and Labrador will be dictated to some extent by the legal political, economic and social issues particular to their respective regions.

For these reasons, in addition to its own research, ICNI depends upon significant input from the six Inuit regional associations. It is only in such a manner that ICNI can co-ordinate, unify and represent all Inuit interests and ensure that the specific interests of each region will be protected and dealt with adequately.

Therefore, in order to achieve meaningful participation by the regional associations, our funding proposal allocates a portion of funds to be distributed to each regional association to enable them to research their particular regional interests and participate in ICNI's overall research program.

3. Consultation with Inuit Communities

The third objective is to establish a communications network with all Inuit communities for the purposes of adequate consultation of all Inuit before positions on constitutional and other issues are finalized by ICNI and the regional associations, and are presented to federal and provincial governments.

Different ideas, options and proposals must be circulated and explained in the Inuit communities and adequate feedback or response must come from them.

For such purposes each regional association must at least have a small core staff responsible for carrying out this vital liaison between the regional association and Inuit of such regions as well as between the regional association and ICNI. In this regard, the larger distances between northern communities dictates considerable expenditures for travel, by regional staff, by ICNI researchers and by the ICNI committee members.

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Appendix

INUIT COMMITTEE ON NATIONAL ISSUES

1. COMPOSITION OF COMMITTEE:

- 8 members
 - 6 members chosen by the Board of Directors of each regional association or his/her alternate
 - 2 co-chairpersons (or their alternates)
 - President of ITC
 - one co-chairperson (C.W. Watt) selected by ITC Annual General Assembly

2. FUNCTIONS OF THE COMMITTEE

- generally, to represent Inuit of Canada on all issues of national interest to Inuit with a unified voice
- specifically:
 - preparation for full participation at First Ministers Conferences including energy and economic development
 - constitutional issues including international issues
 - protections for aboriginal rights
 - collaboration where necessary with other native groups
 - establish priorities in relation to functions of Committee
 - designation of sub-committees on particular issues
 - preparation of budget to ensure adequate ITC and regional participation in work of the Committee
 - research with respect to national and international priorities
 - reports to the Board of Directors

3. FUNCTIONS OF CO-CHAIRPERSONS:

- to represent Inuit at First Ministers Conferences and other government talks
- to act as spokespersons on behalf of Committee with governments, other native groups and media
- to lead discussions at Committee meetings
- to accept and carry out mandates delegated by the Committee

4. RESOURCES AVAILABLE TO COMMITTEE:

- Committee members may be assisted at meetings by technical and legal support, staff and consultants when required and to the extent available.
- Committee to reserve a portion of budget for the administrative and other costs incurred by Committee

5. QUORUM AND PROCEDURE:

- quorum and other procedures to be decided and amended as necessary by Committee (a quorum of 5 out of 8 members may be advisable)

6. RESPONSIBILITIES OF REGIONAL ASSOCIATIONS:

- to select a member of Committee and provide adequate direction to the member
- to provide adequate information and consultation with Inuit of the region
- to establish and research local priorities

7. FUNDING:

- direct government funding
- indirect government funding
- private foundation funding

APPENDIX II

AREAS FOR CONSTITUTIONAL REFORM (ICNI)

1. Aboriginal rights
2. Alternatives to the elimination of the concept of aboriginal rights
3. Cultural protections (including language rights)
4. Inuit interests on the international level
5. Political representation in Parliament and the legislatures
6. Inuit rights with respect to archaeological research and property
7. Alteration of provincial and territorial limits and the creation of new provinces
8. Economic development (including regional disparities)
9. Environmental protection, offshore resource development and coastal zone management
10. Equality before the law and equal protection of the law and special measures for native peoples
11. Trust responsibility of the federal government under section 91(24) of the BNA Act 1867.

APPENDIX III

MEETING OF THE STEERING
COMMITTEE OF CCMC AND THE NATIVE
PRESIDENTS

ITC Resolutions on Aboriginal Rights

Inuit Committee on National Issues

Ottawa
December 3, 1979

INUIT TAPIRISAT OF CANADA

Igloolik, N.W.T.

September 3-7, 1979

Resolution #1

Request for Clarification of Federal and Provincial Government

Positions on Aboriginal Rights

WHEREAS the Inuit of Canada, as original inhabitants, have aboriginal rights on the land which we have used and occupied from time immemorial;

WHEREAS it is the position of Inuit that aboriginal rights are legal rights and therefore are legally enforceable by Inuit;

WHEREAS in a policy statement dated August 8, 1973 the federal government declared that it was prepared to negotiate settlements of aboriginal claims with Native people who could demonstrate that they possess "a traditional interest in land";

WHEREAS despite the fact that the federal government recognizes in virtue of its 1973 policy statement the validity of the concept of aboriginal rights, the government has however denied as recently as the Baker Lake court case that aboriginal rights exist under the laws of Canada and that if such rights do exist, they are not enforceable in Canadian courts of law;

WHEREAS in order to enter into settlements of aboriginal claims, federal and provincial governments in Canada insist as an essential condition to such settlements that Native peoples surrender their aboriginal rights to the lands and that the Parliament of Canada extinguish permanently such aboriginal rights;

WHEREAS it is obvious that the above positions of the federal and provincial governments are contradictory since on the one hand they deny the existence of aboriginal rights in cases brought before the courts of Canada yet on the other hand they insist on a surrender and extinguishment of these same aboriginal rights when entering into settlements of aboriginal claims;

WHEREAS these inherent contradictions and confusion in the federal and provincial government positions on aboriginal rights do not contribute to a positive and healthy atmosphere for negotiation of settlements of aboriginal claims by the Native peoples of Canada;

THEREFORE BE IT RESOLVED

THAT Inuit Tapirisat of Canada, in collaboration with the Inuit regional

...

RESOLUTION #1(cont'd)

associations, request federal and provincial governments to reconsider and clarify their position on surrender and extinguishment of aboriginal rights so as to fully respect Inuit perspectives and our position on the significance of maintaining the concept of aboriginal rights.

INUIT TAPIRISAT OF CANADA

Igloolik, N.W.T.

September 3-7, 1979

RESOLUTION #2

Significance in Maintaining the Concept of Aboriginal Rights

WHEREAS Inuit, as original inhabitants of Canada, have special status and special rights;

WHEREAS these special rights include aboriginal rights and consequently, the inherent right to fair and equitable settlements of aboriginal claims based on aboriginal rights;

WHEREAS aboriginal rights derive from the use and occupation of lands by Native peoples from time immemorial as well as from the traditions and customs of their respective cultures and societies;

WHEREAS preservation of the concept of aboriginal rights is vital to the development of Native peoples as distinct, flourishing cultures insofar as it provides the central foundation for ongoing growth and evolution of Native cultures and traditions;

WHEREAS aboriginal rights constitute both cultural rights and human rights unique to Native peoples, indivisible from their ancestries, heritage and identities and these aboriginal rights are a sustaining historical source of their pride, dignity and self-worth;

WHEREAS Inuit continue to make a cultural contribution to Canada and the international community through the practice of their aboriginal customs and traditions;

WHEREAS it is the continuing policy of federal and provincial governments to demand the surrender of aboriginal rights as an essential condition of settlements of aboriginal claims, and the Parliament of Canada to extinguish permanently such rights upon surrender;

WHEREAS the primary objective for governments to enter into settlements of aboriginal claims is to secure peaceful settlement and development of Canada in areas where Native peoples possess aboriginal rights and not to eliminate the concept of aboriginal rights;

WHEREAS it has not been clearly demonstrated by governments that surrender and extinguishment of aboriginal rights as presently conceived by them are necessary in order to achieve their primary objectives for entering into settlements of aboriginal claims;

...

RESOLUTION #2(cont'd)

WHEREAS it is the Inuit position that this primary objective of governments can be achieved through settlements of aboriginal claims without eliminating the concept of aboriginal rights;

WHEREAS perpetuation of federal and provincial government policy of surrender and extinguishment, as conceived and implemented by governments, serves to unnecessarily deprive the Native peoples of unique and intrinsic cultural and human rights and ultimately results in a form of assimilation with the mainstream of Canadian society in a manner detrimental to Native peoples;

WHEREAS this process of assimilation is clearly inconsistent with Canada's declared and affirmed policy of multi-culturalism;

THEREFORE BE IT RESOLVED:

THAT Inuit do not accept the position, as presently conceived by federal and provincial governments, calling for surrender and extinguishment of aboriginal rights as an essential condition to settlement of aboriginal claims.

INUIT TAPIRISAT OF CANADA

Igloolik, N.W.T.

September 3-7, 1979

RESOLUTION #3

Alternative to Present Government Position on Surrender and
Extinguishment of Aboriginal Title

WHEREAS Inuit do not accept the position, as presently conceived by federal and provincial governments, calling for surrender and extinguishment of aboriginal rights as an essential condition to settlement of aboriginal claims;

WHEREAS the Inuit Tapirisat of Canada, in collaboration with the Inuit regional associations, are requesting federal and provincial governments to reconsider and clarify their position on surrender and extinguishment of aboriginal rights so as to fully respect Inuit perspectives and our position on the significance of maintaining the concept of aboriginal rights;

WHEREAS Inuit Tapirisat of Canada, in collaboration with the Inuit regional associations, are in the process of formulating a viable alternative to the elimination of the concept of aboriginal rights as presently demanded by governments when entering into settlements of aboriginal claims;

THEREFORE BE IT RESOLVED:

THAT after consultation with the National Indian Brotherhood and the Native Council of Canada, the alternative to be formulated by I.T.C. and the regional associations be submitted to the federal and provincial governments for appropriate action;

THAT I.T.C., in collaboration with the Inuit regional associations, meet and discuss the issue of aboriginal rights and the proposed alternative to elimination of the concept of aboriginal rights with Canada's First Ministers with a view to securing adequate legal protections of aboriginal rights and their entrenchment in the Canadian Constitution;

THAT in carrying out the above, I.T.C. and the regional associations give suitable recognition to the following principles:

- a) that the concept of aboriginal rights be recognized as a dynamic and evolutionary concept which must closely reflect the growth and evolution of Inuit society and culture and, therefore, additional rights relating to Inuit culture, traditions and customs may require

legal recognition from time to time as aboriginal rights through future legislation or agreements;

- b) that rights derived from aboriginal title may require from time to time greater protections than similar rights which other Canadian citizens possess, in order to provide appropriate recognition, respect and sanctity to Inuit historical and cultural origins;
- c) that aboriginal rights are the essential and unique characteristic of Native peoples culturally distinguishing them from other peoples of Canada, constituting their birthright as original inhabitants, representing an integral part of their special status and interests, and providing the central foundation for further development of their respective Native cultures and societies;
- d) that in the event that Inuit enter into settlements of aboriginal claims, those aboriginal rights possessed by Inuit from use and occupation of land from time immemorial must not be viewed in legal terms as "surrendered" or "extinguished" but instead as an "exchange" whereby in such settlements the new legal rights relating to lands or Inuit traditions or customs be legally recognized and defined as aboriginal rights which continue in favour of Inuit beneficiaries to such settlement as part of their cultural and human rights;
- e) that in the event that Inuit enter into settlements of aboriginal claims, those aboriginal rights possessed by Inuit from time immemorial, which rights are exchanged through such settlements for other legal rights and benefits, shall be deemed to be revived to the extent of the land areas affected, in the event of certain specified breaches by the government of the settlements or the legislation incorporating such settlements, where the nature of such breach is of an irreversible, irreparable and fundamental nature;
- f) that where no settlement of aboriginal claims has been entered into, the aboriginal rights of Inuit deriving from their use and occupation of land from time immemorial shall not be affected in any way by the proposed alternative.