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Aboriginal Hot Spots and Public Safety

Minister of Indian Affairs and Northern Development and
Federal Interlocutor of Métis and Non-Status Indians

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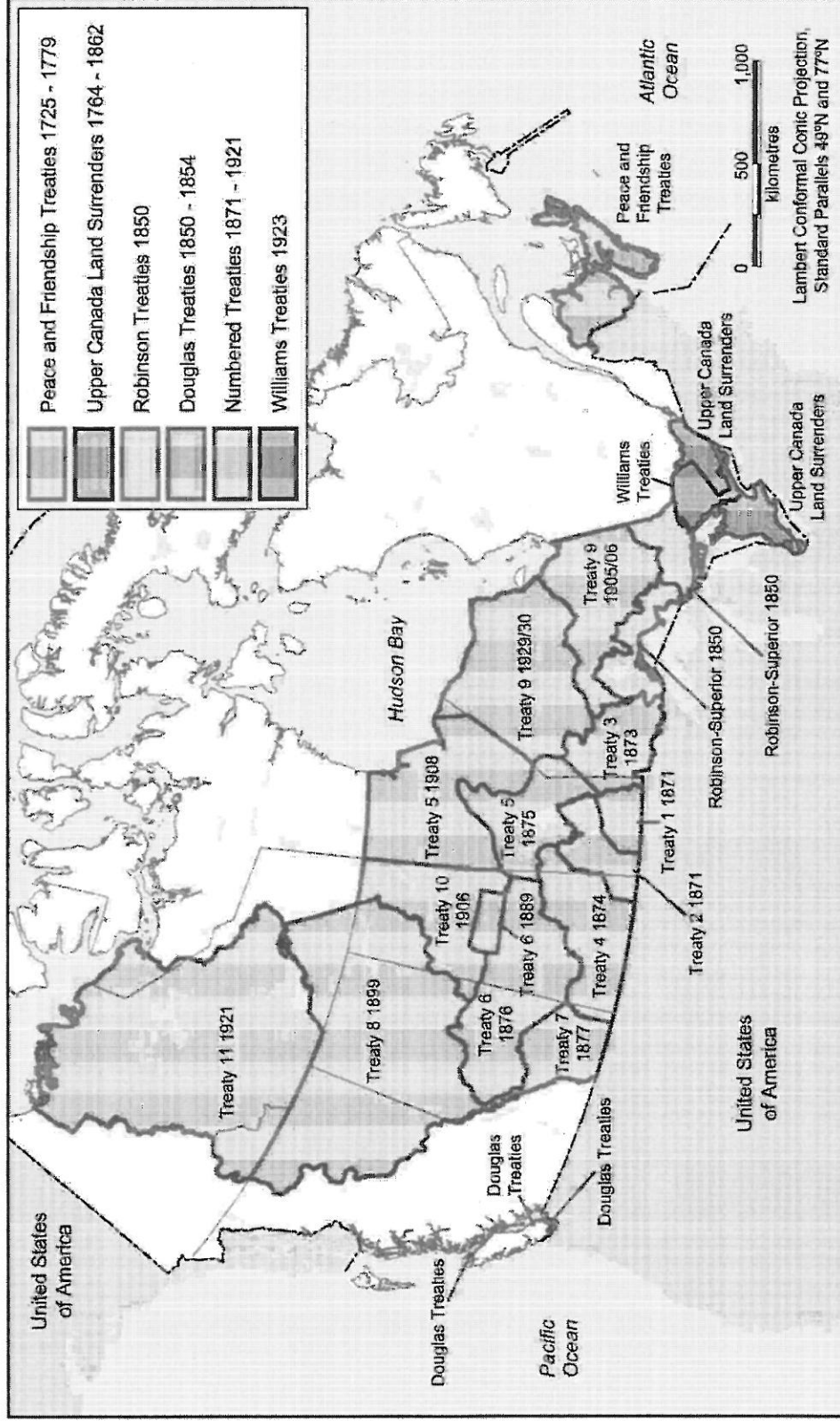
Purpose of Presentation

The purpose of the presentation is to:

- ❖ Set First Nations Relations in an historic context;
- ❖ Describe INAC's mandate and how it relates to that of other Federal Departments and the Provinces and Territories;
- ❖ Categorize Aboriginal grievances & response mechanisms; and
- ❖ Describe INAC's Hot Spots Reporting System



Historic Treaties



Historic Treaties

Not all First Nations have historic treaties:

- ❖ 70 agreements between 1701 and 1923
- ❖ 369 (of a total 614) First Nations
- ❖ 8 provinces & 3 territories
- ❖ 500,000 First Nations people (2004 census)

Beyond Treaty issues are questions of Aboriginal rights and title.



Constitutional Context: Aboriginal Rights and Title

- ❖ **Aboriginal Rights - Section 35 of the *Constitution Act, 1982*** : The existing aboriginal and treaty rights of the aboriginal peoples of Canada are hereby recognized and affirmed; for Indian, Inuit and Métis peoples of Canada.
- ❖ **Aboriginal Title – Supreme Court Judgment *Delgamuukw v. British Columbia* (1997):**
 - Described S. 35 protections afforded to Aboriginal title; and defines how Aboriginal title may be proved, and outlines the justification test for infringements.
- ❖ **Consultation – Supreme Court *Haida and Taku Judgments* (2004):** Crown has obligation to consult (and where appropriate accommodate) where its actions may adversely impact S.35 Rights



Constitutional Context: Federal and Provincial Crown

Constitution Act (British North America Act, 1867):

- ❖ S.91: Canada responsible for Indians and lands reserved for Indians
- ❖ S.92: Provinces responsible for:
 - matters of a local nature (education, social, policing)
 - management and sale of provincial public land

Indian Act reconciles tensions between S. 91 & 92:

- ❖ S.88: General provincial laws applicable to Indians

Constitution Act, 1930 (Natural Resource Transfer Act):

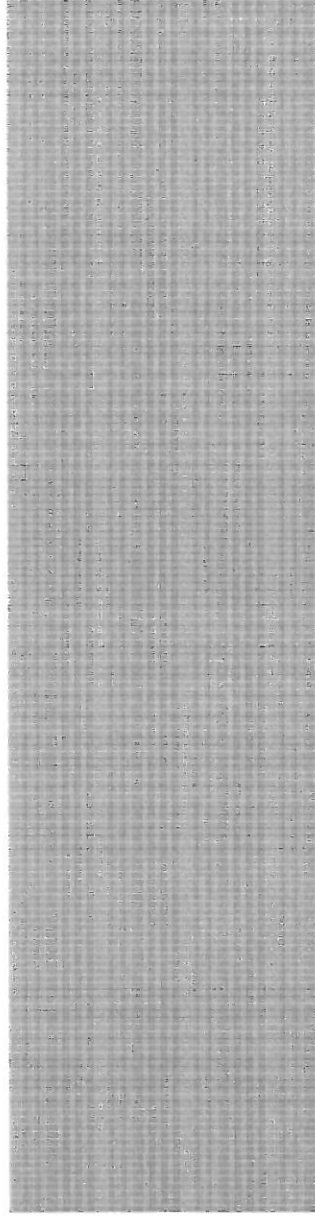
- ❖ federal interest in all Crown lands, mines, minerals and royalties derived therefrom belong to the Provinces (MB, SK, AB, BC)
 - implicates provinces in resolving historic claims



Legislative Context: Indian Act (IA)

One of the oldest Federal Acts:

- ❖ Defines Indian Band and registered Indians
- ❖ Provides for Band governance
- ❖ Provides for land management
- ❖ Provides for management of Indian Monies
- ❖ Provincial laws of general application apply, etc.



Indian Act Bands and Registered Indian Population(Dec./05)

Region	Bands	Registered Indian Population			
		Total	On Reserve	Crown Land	Off Reserve
AT	33	30,973	18,810	22	12,141
QC	39	68,735	46,709	1,523	20,503
ON	126	166,193	79,979	1,633	84,581
MB	63	121,405	75,075	1,732	44,598
SK	70	119,979	58,418	1,831	59,730
AB	44	96,604	59,788	2,783	34,033
BC	198	120,044	58,415	366	61,263
YK	16	8,073	501	3,390	4,182
NWT	26	16,365	284	10,923	5,157
Canada	615	748,371	397,980 (53%)	24,203	326,188

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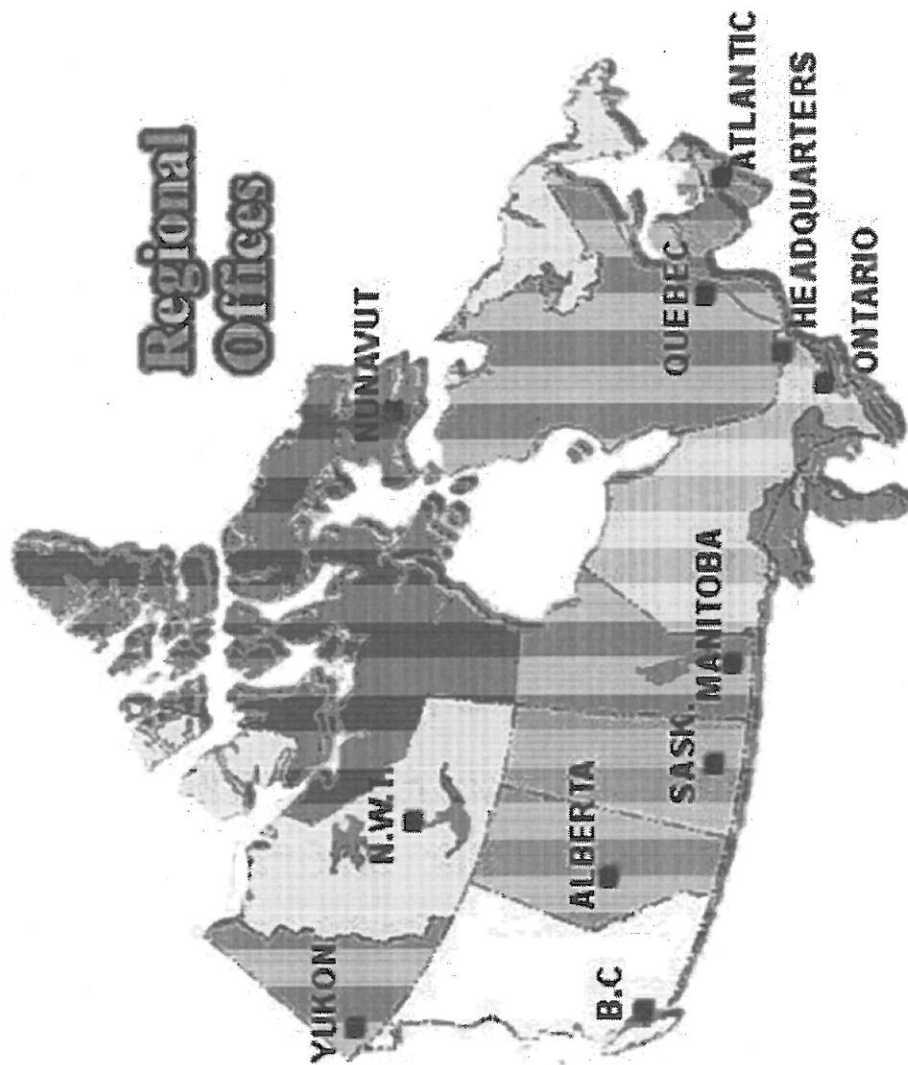
INAC's Mandate

Primary, but not exclusive, responsibility for meeting the federal government's constitutional, treaty, political and legal responsibilities to First Nations, Inuit, and Northerners.

Support First Nations and Inuit in developing healthy, sustainable communities and in achieving their economic and social aspirations.



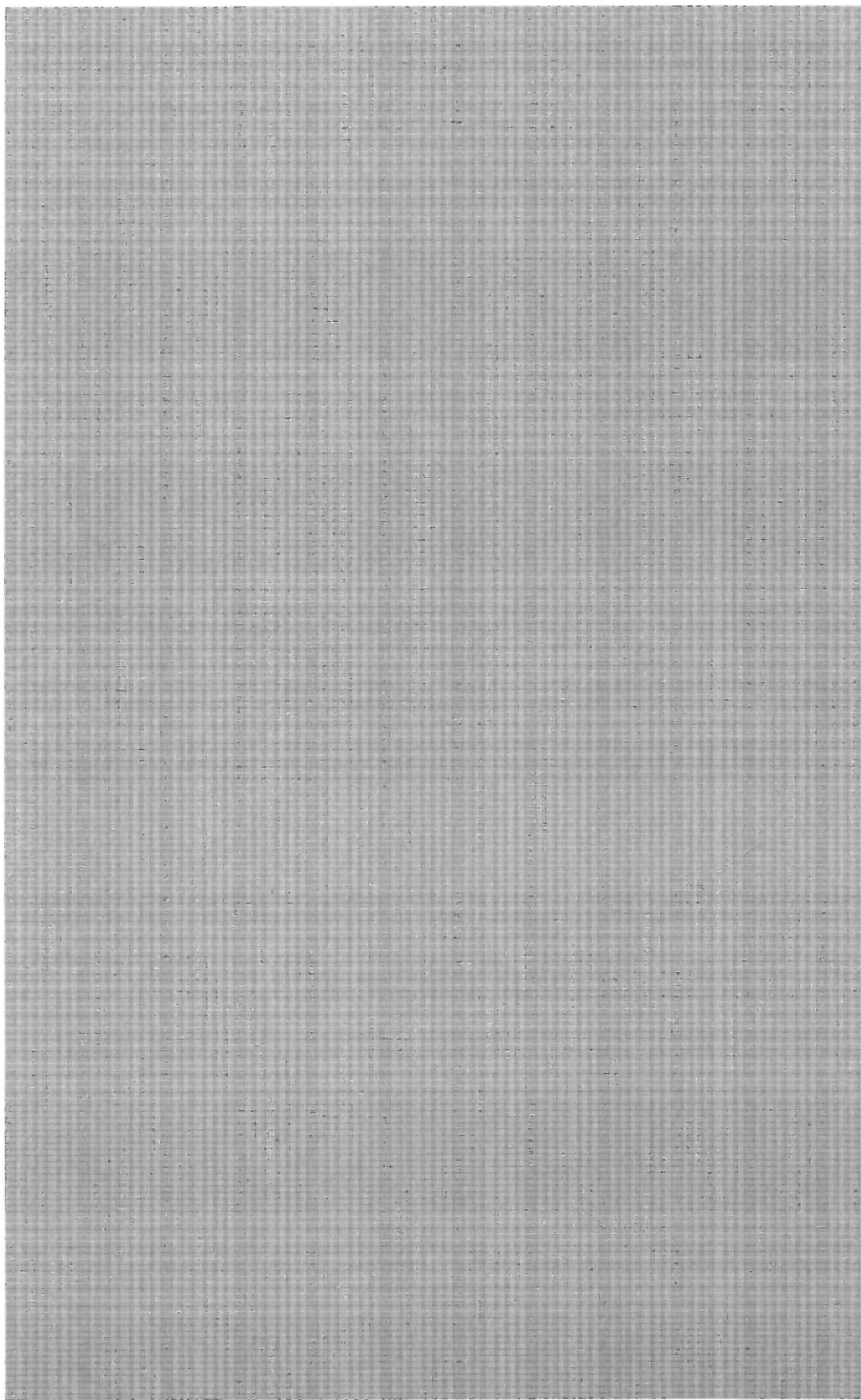
INAC's National Organization



INAC's Program Structure

INAC Strategic Outcomes and Examples of Services				
Government	People	Land	Economy	Office of the Federal Interlocutor
Good governance, effective institutions and co-operative relationships for First Nations, Inuit and Northerners -IA governance -Self-governance -Claims negotiations	Strengthened individual and family well-being for First Nations, Inuit and Northerners -education -social	Sustainable use of lands and resources by First Nations, Inuit and Northerners -reserve lands -Indian monies -environment	Aboriginal people and Northerners close the economic gap -business dev. -employability dev. -capital works	Strengthened relationships with Métis, non-Status Indians and urban Aboriginal people
Financial Resources - \$ millions (07/08) and Percentage of Budget				
867 (14%)	3,376 (54%)	281 (5%)	1,709 (27%)	9 (> 1%)
Human Resources - FTEs (07/08) and Percentage of Budget				
1,004 (22%)	1,916 (43%)	651 (14%)	892 (20%)	27 (1%)



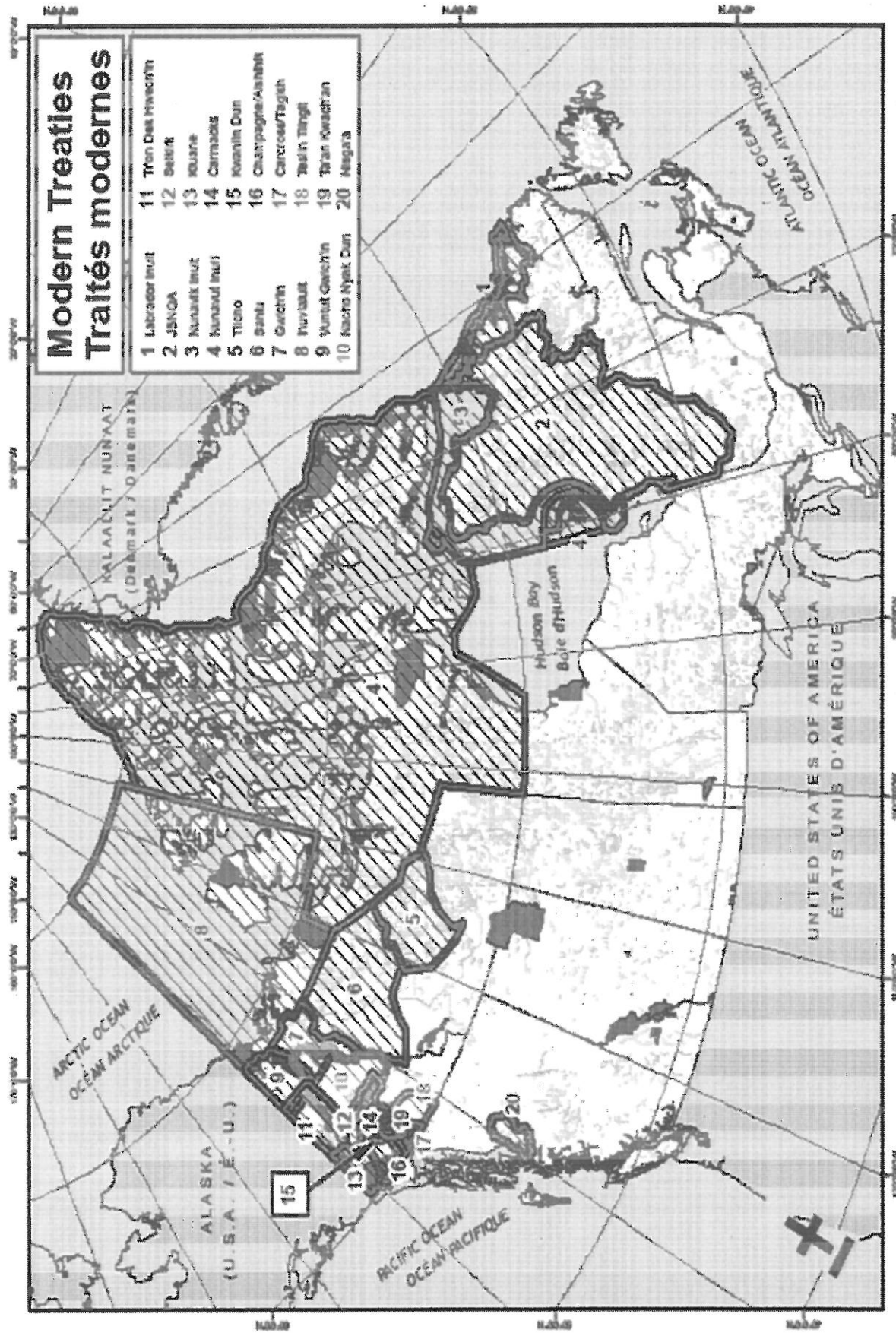


Aboriginal Rights and Title: Comprehensive Claims

Since 1973, 20 modern treaties concluded, covering 90 communities with approximately 70,000 members:

- ❖ Aboriginal ownership of over 600,000 square km of land (almost size of Manitoba) and \$2.4 billion in capital transfers (\$2003)
- ❖ Aboriginal access to a variety of economic benefits: royalties; joint ventures; impact and benefit agreements with private sector; increased capacity for creation of appropriate business structures; employment; and contracting
- ❖ Asserts Canadian sovereignty in North





Treaty and Fiduciary Responsibilities: Specific Claims

Claims are made by First Nations recognized under the *Indian Act*, and must fall within the scope of the policy. Typical claims include:

- ❖ Improper loss or lease of First Nations' lands;
- ❖ Mismanagement of Indian moneys; and
- ❖ Unfulfilled treaty obligations (e.g. insufficient land, agricultural provisions)

Process:

Submission, research, acceptance or rejection, negotiation and implementation



Specific Claims

Specific Claims has, as of March 31, 2006:

- ❖ resolved 465 claims, 272 through negotiated settlements;
- ❖ provided First Nations with \$2.1 B in settlement from federal and provincial governments; and
- ❖ authorized First Nations to acquire 16,000 square kilometres of land

Settlements may involve slow land assembly process:

- ❖ Willing seller and buyer;
- ❖ Environmental assessment; and
- ❖ Negotiations with municipalities

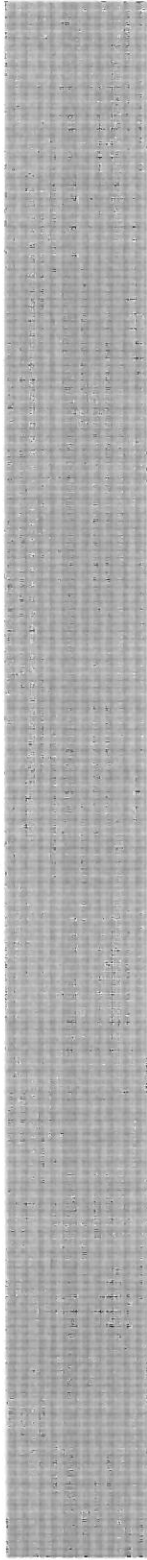


Case Study: Mohawks of Kanesatake (MOK)

- ❖ Arrived in Canada in 1700's as allies of French Crown and settled in a mission for their instruction and spiritual care. As influence shifts, new military and economic alliances formed with British.
- ❖ MOK are unable to assert title on mission lands, which are being sold off by mission. In 1925, Canada begins buying certain lands from mission for MOK, but which remain under provincial jurisdiction.
- ❖ In 1990, Oka crisis begins after MOK failed in using political and legal means to assert authority on land use within their traditional territories (e.g. golf course expansion). Federal government has no jurisdiction.
- ❖ Crisis defused by two track negotiation with INAC/DOJ:
 - measures to stabilize situation (15 yr); and
 - process to resolve historic claim (20 yr)



Case Study: Caledonia and Six Nations

- ❖ Arrived in Canada in 1800's, as loyalists to British, following War of Independence. They were granted the Haldimand Tract, of which they retain about 5% as Six Nations reserve.
- ❖ Six Nations claims revolve around whether there was a valid surrender of Haldimand Tract lands and whether the proceeds were well managed by the Crown. They have asked for a complete historic review of all transactions. This is underway.
- ❖ Crisis ignited by extension of Caledonia towards Six Nations Reserve through construction of a 650 house subdivision on lands under provincial jurisdiction.
- ❖ 



Hot Spots Reporting - Lessons Learned

1. System Overview
2. Nature of Hotspots
3. Multitude of Jurisdictions Involved
4. Leaderships of Protests
5. Incidents Mitigated



System Overview

- ❖ Continuous environmental scans by regions and of media, with ongoing information sharing.
- ❖ Focus on risk of a news worthy item impacting public confidence of Aboriginal portfolio.
- ❖ Monthly Hot Spots report:
 - clarify jurisdiction and federal levers
 - identify and manage “watch items”

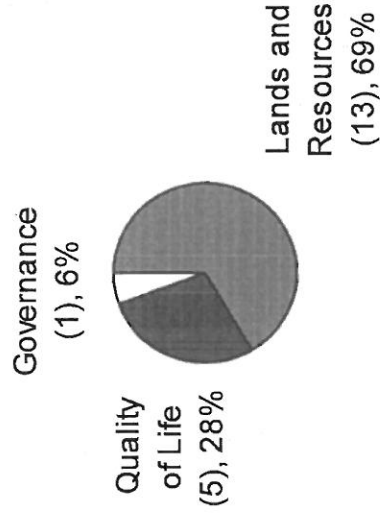


Nature of Hot Spots

The vast majority of Hot Spots are related to lands and resources:

- ❖ but, less than 30% of these are related to “claims” negotiations, and
- ❖ most are incited by development activities on traditional territories

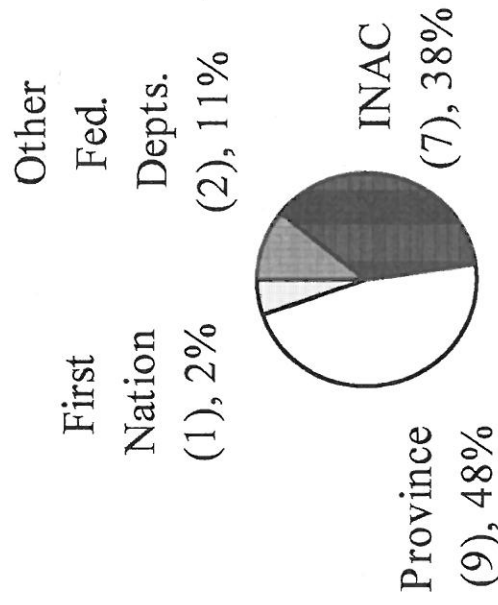
As at February, 2007



Multitude of Jurisdictions Involved

- ❖ Hot spots fall about 50/50 between federal and provincial jurisdictions.
- ❖ Provincial issues are most often related to development on traditional First Nation territories.
- ❖ Federal issues are more diverse and often related to *Indian Act* provisions or program funding issues.

As at February 2007



Leadership of Protests

- ❖ The following unpredictable protests were led by “splinter groups”:
 - **Caledonia, Ontario:** (Douglas Creek Estates occupation)
 - **Belleville, Ontario:** (Montreal/Toronto Rail Blockade in sympathy to Caledonia)
 - **Brantford, Ontario:** (Grand River Conservation Authority Lands)
 - **Desoronto, Ontario:** (Occupation of Quarry)
 - **Grassy Narrows:** (Blockade of Trans Canada Hwy by environmentalists)
 - **Maniwaki, Quebec:** (Blockade of Route 117)

❖

- ❖ In contrast the Manitoba Day of Protest through rail blockades, sanctioned by the Assembly of Manitoba Chiefs (AMC), was highly structured and transparent

❖



Incidents Mitigated

- ❖ The vast majority of incidents are mitigated by INAC and RCMP regional staff
- ❖ Major collaborative efforts have occurred to mitigate certain situations
 - Manitoba Rail Blockades (Roseau River FN)
 - RCMP/INAC/CN interventions
 - Alberta Rail Blockade (Ermine Skin FN)
 - RCMP interventions
 - Kanesatake
 - INAC/PSEPC intervention
- ❖ Caledonia was and remains a significant event in risk management.
- ❖ Fisheries and Oceans is monitoring significant risks related to, for example, the Fraser River fishery.



Public Safety

- ❖ INAC is pleased to support the Hot Spots Reporting System as a contribution to public safety.
- ❖ We appreciate input from other federal departments and provincial agencies.

For more information, please consult:
<http://www.ainc-inac.gc.ca>

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