

Preparing for the Day After Treaty
Panel Discussion:
If we knew then what we know now ...
November 14 - 16, 2007

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Presentation 1: Edmond Wright

Good morning to everyone, my name's Edmond Wright. My Nisga'a name is [Sim'oogit K'amuluugidis]. I am in the Wolf clan and we're Gitwilnaak'il in the House of Duuk in the Nass Valley.

I chair the Finance Committee and our Capital Commission, I function within our government on the Executive and, of course, I'm a member of our Legislative House [Native language].

I was a former Administrator for my village from 1970 to 1998, but I had to do a role as an Administrator for 28 years, I was also functioning with our Nisga'a Tribal Council and for your information, most of my holidays in those years were used for my work at the Land Question Issue working with the Nisga'a Tribal Council.

I still function today as the Secretary/Treasurer for Nisga'a Lisims Government on my second four-year term since the effective date of our treaty.

I'm glad to be here to sit on this panel where we have been asked to end the sentence: "If we knew then what we know now..."

It's very important to touch on our negotiation experiences and I want to start for the Nisga'a Nation from the earliest time of contact. That was in 1881 when we found that Government surveyors were in our midst.

Well, by 1887 our people were pretty well disappointed with the whole process so the Tsimshian and the Nisga'a Chiefs travelled to Victoria. This was really the first face to face negotiation or discussion with Premier Smythe about their particular position on the ownership of the lands and resources in the Tsimshian area and, of course, our Chief spoke on the Nass Valley.

They didn't get a very good reception from Premier Smythe. Premier Smythe said that it was encouraging to see that there would be little parcels and reserves so they could have gardens and grow vegetables. Well, that certainly wasn't what our people were asking for. They were asking for a treaty and Premier Smythe actually asked them how they heard about treaties. By that time our people were travelling enough to know that east of the Rockies there were treaties and that was one of the reasons they were pursuing land, forestry, and other resources, the hunting and fishing and so on.

Entering treaty negotiations with Canada and British Columbia is your indication that you are willing to share lands, resources and jurisdiction within your particular

traditional territory.

Throughout our negotiations, community consultations were held in our four villages and three urban locals and we made up our committees from the Nisga'a Tribal Council and the Band Council so that they could meet regularly to give direction and assist our negotiator.

Our Annual Assemblies and Special Assemblies continued to give guidance to resolve the Nisga'a land question. On March 22, 1996 shortly before our 39th Annual Assembly, Canada, British Columbia and the Nisga'a Tribal Council signed the Nisga'a Agreement in principle, and on December 11, 1997 the Supreme Court of Canada handed down its decision on *Dalgamuukw*. The decision caused some delays in the Nisga'a negotiations as all three parties reviewed the implications of the ruling. The Nisga'a Nation decided that they would honour the AIP and continue negotiations on that basis. After all, our AIP was clear that our Aboriginal title and our Aboriginal rights would not be extinguished or surrendered.

At the 41st Annual Assembly of the Nisga'a Nation in New Aiyansh on April 27, 28, 29 and 30 of 1998, we reviewed the draft chapters of the final agreement and continued the development of the Constitution of the Nisga'a Nation.

On July 15, 1998 in Terrace, British Columbia negotiators from Canada, British Columbia and the Nisga'a Nation concluded negotiations of the Nisga'a final agreement with handshakes, hugs and a whole lot of joy. It was quite the

celebration. We had our people come in from the Valley to join us singing and dancing as we concluded.

On August 4, 1998 in New Aiyansh the final agreement was initialled by Canada, BC and the Nisga'a Nation.

We actually started what I would call implementation before all three parties completed their ratification. We got a quick start on the preparation of our draft legislation for our new regime during the ratification process by the three parties.

May 11, 2000 was selected as the effective date for the Nisga'a final agreement. Our Nisga'a Tribal Council, General Executive Council, served as a transition government for the Nisga'a Nation. We were sworn in as members of [Native language] that's our Legislative House on May 11, 2000. At the meeting, WSN rules of conduct were adopted. The Speaker and the Deputy Speaker were elected and 18 new Nisga'a Legislators and the Constitution of our Nation were enacted.

Our work as a new government had just begun. Boy, did it ever just start. Four or five days after the effective date we were down here in Vancouver defending our treaty along with Canada and British Columbia against Gordon Campbell, now Premier, and his colleagues. And I think you're aware that we won that case, that they were arguing that our agreement was unconstitutional. Williamson ruled that there was room within 91 and 92 for us to have certain powers and we had willing partners at the table that were willing to share those particular jurisdictions.

So that case still is a law of the land that our treaty is a very legitimate treaty.

The Nisga'a Nation conducted its first general election on November 8, 2000. All our candidates were elected to serve a four year term and in our legislation we chose four years, although our Constitution gives us up to five years. We thought that we would start with four and if we needed to extend it we'd have that time to allow it to happen.

Our transformation from the *Indian Act* - certainly the recognition of our legal status and capacity is within our treaty and our governments. The Nisga'a Nation and the Nisga'a villages are separate and distinct legal entities. The Nation acts through Lisims Government and the villages act through their village government.

We had four grants of land that were made by the Nisga'a Nation to the four Nisga'a villages. Everyone in each village received a Nisga'a Village Entitlement to their lot. We also granted interests such as statutory rights of way, easements, licenses of occupation, permits, and so on to BC Hydro, TELUS, Ministry of Forests, Ministry of Highways, DFO, CBC, RCMP and so on.

Our land regime was put in place; we have the Nisga'a Land Title office and the Lisims Land Registry.

Presently eligible recipients have progressive holdings that start with the Village Entitlement and then moves to a Nation Entitlement and then you can raise the title in the Provincial Land Registry.

We are presently reviewing that and we now have marching orders through our Executive to move to fee simple estates for individuals in each of our villages holding fee simple estates, moving away from certificates. Well, that was done very deliberately, partly to challenge the financial institutions on their requirement to forever request guarantees from the Nation.

We had bi-elections in the spring of 02, the fall of 02 and the fall of 03. We also had bi-elections in the spring of 05 and bi-elections in the spring of 06 and the fall of 06.

One of our laws - the *Administrative Decisions Review Act* actually was put to use. There were appeals on one of our elections, the second general election, and the ruling of our Board was that some of the results were invalid. Therefore our Executive had to call for new elections. We're actually seeing the areas where required to be scrutinized by an independent group actually works.

We have provisional budgets to start the year and we adopt a final budget on October 31st, something very new in implementation for us. We've set up our Nisga'a Settlement Trust.

Some of the questions, what other areas did we implement? We had our Nisga'a Fisheries that we developed. We have an Elders' Package - when a Nisga'a participant becomes 60 years old they receive a payment of \$15,000. We set up our *Economic Development Fund Act*. We have our Nisga'a Capital

Finance Commission that oversees asset replacement and major maintenance. We have our Lisims Fisheries Conservation Trust that contributes to our fisheries program. We have our Nisga'a Fisheries Opportunity Fund that allows for the buying of licenses and assisting of our commercial fisheries.

Lessons learned. I think there are more areas within your treaty that need pre-implementation. It's very hard to try to do within the period from final agreement to ratification to effective date and I think there are areas, quite a bit more areas, that can be done.

In implementation, the plan should be binding on all three parties and funding should be properly budgeted. Funding for government should not be based on Band Council budget. And certainly our coalition is dealing with that through the Land Claims Coalition.

OSR: lessons learned. I think there's a conflict between governance and business development. As soon as one of our corporations deals with our resources we have to play big brother by demanding their financial statements so we can do calculations on their earnings and I think that's wrong when we try separating government and business and we're still reaching in.

Wills and estates are going to be a major issue. We're under the Provincial system, but we got used to the very relaxed *Indian Act* process. I think that needs to be done. I think the use of status Indians by Canada is still there; our treaty says that benefit should be for Nisga'a citizens.

The question that was asked at the beginning how to rephrase: *Would you have entered into a treaty negotiation if you had known what you know today after seven years of implementing treaty?* Remaining under the jurisdiction of the *Indian Act* was not an option for the Nisga'a Nation. This statement is made as a result of discussions of the Nisga'a Nation here in the 41 Annual Assemblies before ratifying the Nisga'a final agreement. Thank you very much.

Presentation 2: Richard Nerysoo

If we knew then what we know now, we'd think about the kind of words and the kinds of objectives and the kind of community that we would want to leave.

First, one has to look at the euphoria versus the hangover. Is this an exercise in creating more independence of our people or continued dependency, with that dependency moving from Canada to our own Aboriginal governments? I think it's really important that people try to think about that issue: whether or not we were creating prosperity or abject poverty for our people and moving it from one government to the other.

And this idea of business versus government. It always seems that we talk a lot about the idea of removing business from government and we forget that and we actually tried to maintain control over those things. One of the greatest problems that we've had historically is the idea that our people should always have to rely on government, on the

collective sense instead of promoting the idea that our people should become more independent so that they can sustain their community governments. In other words, that there's a basis for taxation for our governments then somebody has to pay for it. The people have to think about it in that context.

The other thing is: are you creating a dream or a nightmare? In other words, do we create an exercise where people wake up one day and that they continue to dream about the bigger things as opposed to finding that they're in an exercise, a nightmare that they don't know how to get out of?

We came, as the Gwich'in. And for those that don't know, we have a numbered treaty - Treaty 11 - that applied to us. And we entered into the [treaty negotiations] with the idea of trying to change, not the terms, but the understandings that we had about Treaty 11, and to expand what we understood to be Treaty 11.

The Gwich'in Tribal Council came about as a result of the Dene/Metis negotiations process for the Dene/Metis in the Northwest Territories. That basically broke up in 1988 when the Gwich'in decided that they were going to leave the process simply because the Dene/Metis negotiators and the leaders decided that they would not allow the communities to vote on an agreement in principle. So they walked in 1988 from that process because it was very important for the Gwich'in to get the decision of the people to come to an agreement, yes or no. Not the leaders, but the people, to agree to the process, to agree with the results and to accept

or deny what that agreement would mean.

So, in 1988 the Gwich'in removed themselves. In 1990 we signed an agreement in principle. In 1992 we signed a final agreement.

I will say this - it's all well and good that we signed the agreement but our greatest challenge has been implementation. It has been the most difficult exercise that we have gone through. It seems as though there are never ending negotiations between Canada and the Gwich'in about the objectives and the obligations of the land claim agreement. We still have outstanding issues that remain under Treaty 11 that have not been resolved and that still need to be dealt with.

But it always seems that the [federal government has] to defend what it is that they understood their agreements to be. It's the same thing with us - we're always trying to get to the conclusions of what we understood the land claim agreement to be and what government understands it to be. And it's a great ongoing debate for us.

I'll say another issue is - for those who are at the table negotiating agreements - understand what it is that you're signing. Really understand it, because legal words mean different things to different people. And if a person who does not speak the language of English doesn't understand what it is you're signing, then obviously you're going to create a gap between those who understand and those who don't understand. So the negotiations have not been completed.

And then there is this idea of objectives. We

intended the agreement to say this from the Aboriginal point of view. Then you go back and the government says, well we intended it to mean this. And the next thing you know, you're back at the table trying to resolve what it is that you really meant to say at the beginning but it's too late to change it because you have an agreement that's already signed. So you have to understand what it is that you're signing.

The other thing is that objectives and obligations are two different things. You have an objective of making your community self-governing and yet when you get into the process of implementation, governments say, "Well, we didn't mean it to be that." In other words, we didn't want to give you all the authority that you should be getting. We wanted to go this extent but your municipality needs to get, has that authority. Or this other First Nation has that authority.

And so the debate is circular in the sense that what it is you thought you understood, who else had the power, why is it that you don't have it? And yet the agreements always look like they're exactly what it is that you intended it to be.

The other exercise that I've always understood is this. We continue to grow as a community. In 1992, when we signed the agreement we had, I believe, a population of 2,500. Today we have 35, almost 3,700 people. The agreements and the demographics in that growth has never been calculated into the compensation arrangements that were arranged and therefore what

happens is that the demand for services and programs are now transferred to the First Nation or the Gwich'in Tribal Council to respond to that 1,000 people growth in our community. It's not governments any more. And it seems that those things of demographics are never a consideration in these, and yet there's a continuing growth in population. That doesn't always happen.

The other thing that I kind of need people to understand is we have four communities that are divided. In the case of services I am the leader of a community called Inuvik. The community, people have moved into Inuvik, gone from Sekachik, Fort McPherson and Klavik into Inuvik. We're the hub of the region. We're the large community and when I took over as Chief four years ago, the Gwich'in population in Inuvik was 239. Today it's 578. There's been no transfer of money from the other communities because we have never had a change in the formula financing for each of the communities based on that transition. And I think that when people look at these issues, you have to look at it in a global context and try to consider all the changes that are going to happen in your communities and try to find ways that are going to accommodate that kind of transition, because my belief is that growth happens.

It happens in our communities, it will happen in every community. Everything that we have is a situation that the rights apply to everyone. They apply outside our lands because the right holders are the people and so what's

happening for us is there's a great demand for services to those people that are living in Yellowknife, in Edmonton, right here in Vancouver, because they are, in fact, because of rights, because of the ones that hold rights have the right to services and programs as a result of the land claim and the treaty agreement.

And so you cannot deny them the right to access the programs. The problem, the challenge for us as a Gwich'in Tribal Council is being able to respond to those needs outside our jurisdiction. And 45 per cent of our total population of Gwich'in live outside the Gwich'in settlement area and when university and post-secondary programming starts in the fall, it's almost 60 per cent that are outside our area. So our challenge is trying to find ways to respond.

Another issue that is, I want to say, Grand Chief Carvel mentioned this, is a need for us to try to solve the trans-boundary issues between First Nations and Aboriginal governments.

I know that as I listened earlier to the comments, but the reality is that if First Nations and Aboriginal people cannot solve those problems, they will not be able to get other governments to step in on their behalf because other governments will avoid it and they will prefer that Courts decide those issues for you. And I say this to you. As a former Minister of Justice and Premier, having been in that position, I would encourage all First Nations to resolve internally and externally their trans-boundary issues.

I know how challenging it is for the fellow that came up and said, "Well, some of these things are not working," but First Nations have to find a way to resolve their differences. We can't allow other people to come in. I'm not saying it won't happen, because it has happened, but it's the best way for us.

For instance, the differences between us and the Yukon was for us to sit down, try to find a way and a mechanism to get involved in the Council of Yukon First Nations because we do have land, we do have trans-boundary rights and trans-boundary interests and the best way for us was to join that organization so that we can explain our issues to them and they can come and help us deal with the issues. Now that's not always a solution for everyone, but I do know this, it will be extremely helpful.

The other thing that I'm party to is an exercise with the Dene Nation on developing a dispute resolution mechanism where First Nations and Aboriginal people will sit on a Dispute Resolution Board and finding a dispute resolution vehicle that will allow for us to resolve either specific community issues or trans-boundary issues. It's up to the First Nations then to determine who is going to be part of that conflict resolution and we're in that exercise right now and trying to find a mechanism. Because unless we do it, I know this, governments would prefer us to spend money in Court and I think there are better ways to resolve that.

The other thing, the final thing I want to say is that the Gwich'in Tribal Council represents everyone. We

represent the status Indian, the Metis, the non-status members and all have equal rights in the Gwich'in Tribal Council. They have equal rights to program services, equal rights to voting, equal rights whatever that might be. So we've tried to be inclusive in our exercise.

So thank you very much. I have a bit more to say but I think I can answer questions. Thank you, Mr. Chair.

Presentation 3: Charlie Evalik

Thank you very much. My name's Charlie Evalik and I'm currently with Nunavut Tunngavik Inc.

I want to give you a quick overview of Nunavut land claims agreement before getting to "If we knew then and what we know now..." and what might be done differently today.

Nunavut land claims agreement was signed in 1993, almost two decades after Nunavut filed their Statement of Claim with the Crown. Nunavut land claim agreement sets out Inuit rights, establishes institutions and establishes fee simple ownership of major tracts of land for the Inuit.

Inuit owned lands make up about 18 per cent of the service area, Nunavut, and about 1.8 per cent of the sub-surface. The sub-surface component may seem small but was selected and includes important mineral land resources.

The agreement established financial compensation for the claim and provides a governance framework which is essential to government in Nunavut.

The Nunavut land claims agreement led to the

creation of the new territory of Nunavut and to a public Nunavut government. However, the Nunavut land claims agreement is not a self government agreement like the Nisga'a treaty. The Nunavut government is a public government like those in the Yukon and Northwest Territories.

The Nunavut land claims agreement includes 42 articles on this very comprehensive framework affecting everything from Inuit rights to land ownership, environmental protection, wildlife management, to social and cultural matters to Nunavut Social Government Council.

The environmental and resource management provisions of the claim depend on co-management institutions, boards and commissions which are explicitly part of our public government which are institutions above public governments - we call them IPGs.

Half the members are appointed or nominated by Nunavut Tunngavik Incorporated and half are appointed by the governments. These IPGs play a role in land-use planning, wildlife management, water management and environment impact assessment.

The Nunavut land claims agreement grants 356,000 square kilometres of surface land to the Inuit in fee simple. Lands include both surface and sub-surface, 38,000 square kilometres. Nunavut Tunngavik Incorporated administers the sub-surface lands and the regional Inuit associations administer the surface lands for their respective regions.

The Nunavut land claims agreement also sets up

Nunavut trusts to invest amounts received from the Government of Canada as part of the settlement of the land claim. Today, the trust holds approximately \$1.3 billion. The last payment was received this year, 2007.

Income from the trust in turn provides funding for programs that the beneficiaries would like to set up to benefit the Inuit. Some examples of the benefits and where the income could go to are [Native language] which is a small financial institution to assist the Inuit businesses right across Nunavut, to support regional government corporations. We also have hunter support programs and Elders' pension programs.

It is worth mentioning that [native language] has an agreement with the First Nations bank to expand banking services in Nunavut. The Nunavut land claims agreement also established an interpretation panel to oversee and monitor progress in settling the claim. This includes five year reviews to an implementation contract which monitor progress in settlement claim. This was accompanied by a first ten years of the agreement.

The implementation plan addressed each article of the Nunavut land claims agreement and the assigned responsible for its implementation to government and to Inuit organizations.

There are 26 communities scattered across Nunavut which is divided administratively into three regions, [Native language] as I indicated, with a regional centre in

each region.

Under the Nunavut land claims agreement there was an elected Inuit organization, regional Inuit association these regions to represent Inuit in all aspects of the implementation of Nunavut land claims agreement.

Now I will go into the 15 years of experience with Nunavut land claims implementation and I will go into what I think works in our case.

Firstly, Nunavut government serves all the residents of Nunavut and has been up and running since 1999. It has similar powers as the government of the Northwest Territories and works on a consensus basis with no political parties.

Secondly, the institution of public governments, or IPGs, were not set up until 1996, but they now have over 10 years operational experience and they have generally been sensitive to Inuit interests and concerns in the resource management and development process.

The Nunavut trust has invested well and has funded important programs for the Inuit. There was a collaboration between NTI and the regional Inuit associations.

The regional Inuit associations deal with their regional responsibilities and are accountable to their own constituents. Mineral development is occurring and benefits are occurring to the Inuit through the royalties as well as to our Inuit Impact Benefits agreements.

The Implementation Panel works if and when it

has issues to deal with. This is readily available day-to-day Land Claims implementation questions. The implementation plan has generally been satisfactory but this plan needs to be updated. Discussion on the plans needs to take place between Nunavut Tunngavik Incorporated and the new associations as circumstances change.

Implementing the Nunavut land claims agreement is no short term task. Inuit have been doubled in capacity to manage their own affairs over the last 15 years and will continue to do so.

And what does not work? Interpretation of the Nunavut land claims by the parties can be a problem. The negotiators are not the people who implement these agreements. Understanding exactly what agreement was reached at the negotiating table and carried over to implementation phase is a problem.

Disputes have arisen and are not easily settled. The arbitration and dispute resolution process has not been given an opportunity to work and cannot be relied upon to address interpretation issues. The Implementation Panel process is rarely used. A mechanism with the powers and responsibility to oversee all implementation issues would be welcome if it was able to resolve problems quickly. There are policy issues which need to be ironed between signatories of the claim. An effective implementation plan is essential. This requires consideration of details like timelines, costing and who is responsible for what.

Our implementation contract expired in 2003 and has not been renewed. The Federal Government walked away from the table, from the negotiations. The plan must be updated periodically and understood by all the parties. Different government bureaucracies need to understand, both the letter of the Nunavut land claims agreement and its spirit and intent, in order to ensure effective implementation and its objectives.

Effective communication by all parties for the implementation of the Nunavut land claims agreement and who is responsible for each article need to be properly understood. The parties need to sit down to understand the Nunavut land claims agreement and to set up a proper implementation plan for all the articles of the claim.

And finally, what can be done differently? Implementation agencies, both levels of government, Government of Canada, Government of Nunavut, Nunavut Tunngavik Incorporated and the three regional Inuit associations need to be properly resourced to ensure that the government's framework and institution established by the Nunavut land claims agreement work as planned.

The Treasury Board approval process in relation to claims implementation is very painful. Inefficient funding mechanism needs to be addressed. Transparency is required. Relationships built on mutual trust need to be established.

We need a federal comprehensive land claims policy that would outline how claims are to be implemented and provide direction to our federal departments. We need an

effective arbitration process that no party can veto. An independent watchdog to report directly to the parliament on claims implementation is needed. The Auditor General does effectively but something more regular that would apply to our claims as needed.

And finally, we need to work to get a better understanding by the beneficiaries themselves of the agreement. Too often they do not realize some of the benefits that have come from that agreement that was negotiated a number of years ago and what they are doing in terms of the benefits today. Thanks very much.

Presentation 4: Grand Chief Andy Carvill

Thank you. I want to start by thanking BCTC and the Nisga'a Nation for the invitation to be part of this conference. It is indeed a pleasure to be here.

I also want to recognize politicians and staff from the First Nation governments and Government of Canada and other governments who are also attending this conference. First Nations people here in BC are interested in learning from the experience of other First Nations and Inuit in negotiating and implementing modern treaties.

The conference organizers asked us to speak about "If we knew then what we know now...". It is quite a task. As they say and was mentioned earlier, hindsight is 20/20. I am, however, optimistic about negotiating and implementing modern treaties. There are many problems as you've heard, of

course there are, but we should not let these problems obscure some of the successes that we can have. If you watch TV news, read newspapers, the stories seem almost always to be about failures, disasters and scandals. That, however, is not always the story of modern treaties. We're going to talk about challenges and difficulties in implementing modern treaties, fair enough. But let's also remember that generally modern treaties can be a success story regionally and nationally if properly implemented by the other governments.

We should also remember that Aboriginal peoples in other countries are hugely interested in our land claims and self government experiences. We receive a lot of inquiries from other Aboriginal peoples in Canada and worldwide about implementation of the agreements.

I want to start with a few words about the importance of First Nation peoples supporting each other. Negotiating modern treaties takes a very long time. In some cases far too long. It is grinding to all involved. Lawyers pour over every word, every comma. The implementation process is also often expensive, difficult, convoluted, time consuming and can be frustrating.

Governments on the opposite side of the negotiating table, they have the time, the money and they seem to have an endless supply of staff and people to work on issues. But usually First Nation peoples bring only a few individuals to the table, as we know it is not fun being outnumbered, this is why it's important that First Nation

peoples support each other and be seen to do so.

I think you will hear a lot at this conference about the Land Claims Agreements Coalition which remarkably brings together most First Nations people with ratified modern treaties, CYFN (Council of the Yukon First Nations) is a member of the coalition. The coalition has, for four years, pressed the Government of Canada to adopt a policy to fully implement modern treaties. [The CYFN], as a member of the coalition, recently met with Minister Strahl in the Yukon and pressed upon him the importance of this policy and gave him a copy of the policy for him to review.

A sense of solidarity and mutual support and trust has developed, I feel, between coalition members. This is tremendously important, perhaps just as important as the implementation policy.

The Coalition strengthens my ability as Grand Chief of the CYFN and our individual First Nations to deal with the Government of Canada and to use our land claims and self-government agreements to better the lives of the people that we represent.

All comprehensive land claims agreements are long, complex and detailed. The 1993 Yukon Umbrella Final Agreement, nearly 300 pages of single spaced text, is no different. We need to be able to explain the intent and the scope of these agreements to our people. It was mentioned earlier that our people need to understand these agreements. So my advice is to rethink the level of detail and complexity

that we put into these agreements.

At present, we are putting together and providing constitutional protection to basic rights dealing with issues such as hunting, land ownership, royalty shares with details about administrative procedures, and the number of people that are sitting on boards and committees.

We'd like to look at separating out the big things from the smaller things. It is likely to be easier to implement agreements in certain areas that may be short. Our agreements are only as good as they are implemented.

Negotiators of the UFA (Umbrella Final Agreement) focussed on their job at hand, not so much on implementation which then was years in the future and in hindsight, there could have been a different approach. We should have been thinking of implementation as we were negotiating. This would have added a practical note into the negotiations.

The UFA and individual First Nation agreements put in place a partnership between the Government of Canada, the Government of Yukon and the Government of the Yukon First Nations. Nurturing and maintaining the partnership takes time, takes real effort and money. It has taken us a bit of time to understand the cost of implementing the agreements, the costs of doing business is high, whether promised benefits are delivered or not.

Agreements don't implement themselves, they require committed political leaders supported by dedicated and

knowledgeable staff to negotiate, lobby and persuade our partners to do what is required.

Building the capacity of our institutions and the people they employ to implement these agreements and to deal with our challenges and partners is a huge and ongoing challenge.

To come back to the question posed by the conference organizers, we know this now, but we did not fully appreciate it 15 to 20 years ago during our negotiations.

Many implementation issues come back to money or, in our case, the lack of it. We have just completed a review of implementation in the Yukon and under-funding is a theme that came out time and time again. The financial cost of doing business, particularly if it is coming out of the capital transfer defined in agreements, should be a driving concern during and not after negotiations.

Some commentators including academics characterize comprehensive land claim and self-government arrangements as somehow divorcing or sidelining Aboriginal peoples from Canadian society. This is not correct. Even as we govern ourselves, these agreements provide means for us to engage federal, provincial and territorial government as the case may be.

Effective implementation requires us to understand a lot about how these larger governments work and how broad public policy is made and implemented. Why is this important? One key to effectively implementing our own land

claims and self-government agreements is to use them to achieve national, provincial or territorial public policy objectives.

Agreements in the Yukon can be used to promote the territorial economy, protect the environment and improve the well being of the Territory's residents. Our agreements deeply affect all residents of the Yukon so it is important that departments and agencies of federal and territorial governments use our agreements to achieve their objectives as well as helping us to achieve ours.

It won't be a surprise to you if I say that many Federal departments that operate in the Yukon have only a rudimentary knowledge of our agreements. This is something we know now that we could not have predicted then.

Let me give you an example. The North featured prominently in a recent speech from the Throne. The Government of Canada wants to promote resource development in the North. A special advisor has been appointed to help streamline the regulatory system and an integrated northern strategy has been promised. I don't see how the Government of Canada can move forward on these initiatives without our direct involvement using the UFA and individual First Nation agreements as means to achieve its public policy objectives.

When the UFA was being negotiated I don't think many people on either side of the table thought of the connection between northern Aboriginal peoples and their rights and interests and Canada's foreign policy, but just take a look at the recent speech from the Throne. Arctic sovereignty and

northern dimension to Canada's foreign policy are central themes. Climate change is rapidly altering the northern environment and is undercutting the value of the harvesting rights that we so painfully negotiated.

Coming to grips with the climate change can only be done through foreign policy so First Nations have a real interest and concern about the position Canada takes internationally on climate change.

The UFA has an important clause that guarantees our interests will be represented when Canada undertakes international negotiations on fish and wildlife management.

But in hindsight, it would be very helpful now if negotiators had further stressed our involvement in foreign policy and circum-polar relations, but as I said in the beginning and others have said, hindsight is 20/20.

Who would have thought only six months ago that the North would be the lead theme in the speech from the Throne. As I mentioned earlier, I met Minister Strahl about a week ago and he is well aware of the implementation problems with comprehensive land claims and self-government agreements. The Government of Yukon and Yukon First Nations spoke with similar intent. The Minister responded quickly and in public to the recent report by the Auditor-General of Canada to implementation difficulties with the 1984 Inuvialuit Final Agreement. I think our implementation issues are, at last, starting to climb on the Federal Government's agenda.

I started my remarks by saying that I am

optimistic about implementation of the UFA and our individual First Nation agreements. I'm going to close on a quote from Premier Fentie of the Yukon at the news conference following the meeting that he and I had with Minister Strahl, but before I do, I want to discuss quickly two of the implementation review group findings that have the greatest implications for the future success of implementation, which speaks about and it seems to be a common theme, funding is inadequate. The gap between what we are getting from Ottawa to run our governments and what we actually need is significant, in our case, possibly as high as 70 percent in some cases. Determination of adequacy of funding is incomplete, but the review is proceeding through the GEB project that we have ongoing in the Yukon.

Secondly, certain federal policies and practises are inconsistent with and could be impeding implementation of our agreements. After more than a decade in our case, and 23 years in the case of the Inuvait, Northwest Territories, the Federal Government has still not made the necessary changes in policies or legislation needed to fully implement our agreements. Ottawa is still failing to meet its legal and financial obligations as once again stated in the Auditor-General's report and this is having significant impact on self-governing First Nations in the Yukon. This has slowed our ability to develop legislation, impacted the ability to carry out the obligation that we have to our citizens. We still have to focus too much of our attention on fundraising which diverts us from implementing our agreements and developing our

governments.

In our meeting we just had in the Yukon, like I said, the quote from Premier Fentie is that... this quote is not a case of I knew then what we know now. Actually, it may be the reverse. What is happening now is not what we predicted then. But the point that I am encouraged by what he said was:

"Folks, there's something going on in this Territory that is of great benefit to this federation and that is how we are developing our relationship with First Nations in this Territory, working together in governance, involving them in strengthening our social fabric, involving them in economic development, building Yukon's future together collectively, that's progress. That wasn't happening in the Yukon ten years ago, it sure is happening today."

But with that, there's always great difficulty around implementation, about working with other governments while the Premier says this on one hand, on the other hand he is also, there's a Court challenge that's being undertaken in the Yukon. Little Simon Carmacks versus the Government of Yukon and it could greatly impact all First Nations across Canada that have a treaty in place. Therefore, the Government of Canada has recently applied for Intervener status and they were granted that Intervener status so it's Government of Canada, the Government of Yukon Territory going to Court against Little Simon Carmacks government in the Yukon Territory.

And with that, I want to again thank you so much for the invitation to be here. Thank you.