

DEVOLUTION AND NORTHERN DEVELOPMENT

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August saw a significant event in Iqaluit with the signing of a “Devolution” Agreement in Principle between Canada, the Government of Nunavut, and Nunavut Tunngavik. “Devolution” may be a term unfamiliar to many Canadian ears. Northerners, however, especially those active in the natural resource sector, will know about it and its importance.

Canadian provinces have constitutional powers to control and benefit from the development of natural resources within their borders. The territories have no such power. Any ability the three territories might have to regulate and benefit financially from mining or other natural resource activity comes through agreements with the Canadian Government or federal legislation transferring jurisdiction to the territorial governments. “Devolution” is the transfer of additional jurisdiction from federal to territorial authorities.

Understandably, devolution has long been a goal of the northern territorial governments and has been a long-standing policy objective of the Government of Canada as a path toward political development of the Canadian north. That said, Canada maintained (until the last 20 years) almost complete control over the management of lands and natural resources within the territories.

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This has taken a significant change in course over the last two decades. The Yukon Government became the first territorial government in Canada to achieve jurisdiction over territorial lands and resources in 2003, and a similar Devolution Agreement in Northwest Territories took effect in 2014.

So when, on August 15, 2019, Nunavut Premier Joe Savikataaq, Federal Minister of Crown-Indigenous Relations Carolyn Bennett, and NTI President Aluki Kotierk signed an Agreement-in-Principle, a significant milestone was achieved. While not legally binding, the AIP establishes many major elements of devolution and will serve as a guide for the negotiation of a final devolution agreement.

THE AGREEMENT-IN-PRINCIPLE

The AIP contains the funding and framework for the transfer of the responsibilities for public land, water, and natural resource management from Canada to the GN.

Notable among the terms of the AIP are those that will result in a territorial minister (for several types of approvals) being the final decision-maker for decisions related to natural resource projects (including many related to mining). Further, the GN will have increased powers to appoint members of the Nunavut Planning Commission, Nunavut Impact Review Board, and the Nunavut Water Board.

The AIP also outlines the framework for developing transitional and post-devolution human resources development strategies. These strategies will be consistent with Article 23 of the *Nunavut Agreement*, with the objective of ensuring that Inuit employment levels are maximized within all three levels of government in Nunavut in the positions that will be created as a result of devolution.

Finally, the AIP acknowledges that the Government of Canada will continue to consult with Indigenous groups (aside from NTI) following the signing of the AIP. This may result in the Government of Canada proposing amendments to the final devolution agreement in order to accommodate the concerns raised by these Indigenous groups.

NEXT STEPS FOR NUNAVUT DEVOLUTION

With the signing of the AIP, a five-year timeline was triggered for the negotiation of a final agreement on devolution and the official transfer of the responsibilities from Canada to the GN.

There is lots of work yet to do to achieve devolution in Nunavut. When it is complete, however, the political and regulatory landscape of the Canadian north will have changed significantly in all three territories over a mere two or three decades.

It remains to be seen exactly how devolution will impact natural resource development in the north. Will it encourage additional development in a manner in keeping with northern priorities? Will it result in the desired benefits for northern residents and businesses? Time will tell. ■

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