

# **Inuit Border Mobility Issues**

## **Summary Report**

**InterVISTAS Consulting Inc.**

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## Introduction

The Government of Canada is working interdepartmentally and with Indigenous partners to identify potential solutions to Indigenous border crossing issues. Global Affairs Canada (GAC) is coordinating an initiative to enhance Inuit mobility across the North American Arctic (from Alaska to Greenland).

The purpose of this study was threefold: to undertake consultations and research with Inuit representatives, government and other organizations on border mobility issues facing Inuit Peoples; to identify the key concerns, challenges and considerations in addressing these issues; and to provide potential options for consideration by the Government of Canada. The research included consideration of changes required to the current legislative and regulatory framework, potential international models, and comparisons with the border management frameworks and practices in place in Alaska and Greenland. This is a summary report on the results of the study.

It should be noted that the options provided in this report are not recommendations made by the Government of Canada but rather potential avenues raised for consideration by InterVISTAS Consulting Inc., based on consultations and research undertaken during the course of the review.

## Research and Consultations

There are various initiatives underway which are material to this study. The Government of Canada is co-developing an Arctic and Northern Policy Framework in partnership with Northerners, territorial and provincial governments, and Indigenous Peoples which will establish a long-term vision to 2030 for the Canadian and circumpolar Arctic. In addition, the federal government has been looking at the challenges faced by First Nations at the Canada-U.S. Border. In a news release on December 12, 2018, the Government of Canada announced the implementation of some measures to address the border-crossing issues for First Nations<sup>1</sup> and confirmed the Government's commitment to work with First Nations, Inuit and Métis to look at potential solutions to more complex border-crossing issues. Interviews with key government departments and material related to these initiatives provided a great deal of relevant information.

A critical piece of documentation was the report prepared by the Inuit-led Pikialasorsuaq Commission (with representatives of both Canada and Greenland), "People of the Ice Bridge: The Future of the Pikialasorsuaq".<sup>2</sup> The Pikialasorsuaq is the North Water Polynya located between the northern most areas of Canada (Ellesmere Island in Nunavut) and Greenland. There are a number of Inuit communities in this region that depend upon its rich marine life and have strong historical and cultural ties with one another. The report contains recommendations for this area which includes the establishment of a travel free zone for Inuit across this region.

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<sup>1</sup> <https://www.canada.ca/en/crown-indigenous-relations-northern-affairs/news/2018/12/canada-implements-measures-to-address-canada-united-states-border-crossing-issues-for-first-nations.html>

<sup>2</sup> Information on the Pikialasorsuaq Commission and its report released November 23, 2017: <http://pikialasorsuaq.org/en/>

One of the initial consultations was with the Pikialasorsuaq Commission at the Knowledge Workshop they convened in Nuuk, Greenland on May 29-31, 2018. There were several organizations involved with this workshop including the Inuit Circumpolar Council (ICC), other regional and local Inuit associations and Inuit representatives from communities in Greenland and Nunavut bordering the Pikialasorsuaq area (the North Water Polynya). In addition, there were Canadian and Greenland officials from government agencies and non-government organizations (NGOs). This was an opportunity to spend time with individuals who live in some of the northern communities and to understand the challenges that impact on their daily lives.

As the Inuit Mobility project covers a broad geographical area including the Canadian Arctic, Alaska and Greenland,<sup>3</sup> consultations also included representatives of various Inuit organizations that represent the Inuit on a national and international level as well in the settled land claim areas in Canada (Inuvialuit, Nunavut, Nunavik and Nunatsiavut). While not all parties provided input, the contacts that were made assisted greatly in understanding the issues related to border mobility. Consultations with the Inuit Tapiriit Kanatami (ITK) and the current Chair of the ICC, Dr. Dalee Sambo Dorough were particularly valuable in identifying issues that they feel would need to be addressed. The Inuvialuit Regional Corporation provided insight into the issues faced at the Canada/Alaska border and some of their thinking on potential documents that could be used for identification and travel.

In addition, there were a number of documents and websites reviewed during the research phase of this review including reports from Inuit groups, government documents relevant to both the First Nations report and other Indigenous matters, various legislation, international models, and on the foreign governments involved in this review, i.e. Greenland, Denmark, the European Union (EU), Alaska, and the United States (U.S.).

## **Mobility Challenges Identified**

The fundamental premise which overlays all issues for Indigenous Peoples of the Arctic is the assertion of an inherent right to free travel across all areas of the Arctic by virtue of their traditional communities/nations. They feel that the international boundaries impede their movement and their ability to maintain cultural connections and engage in traditional practices.

The specific cross-border challenges identified are outlined below.

### **1. Identification Required for Border Crossing**

The documents required and/or accepted for identification differ between the three countries as well as between modes of travel, e.g. air versus land and marine. Changes in the security landscape have also resulted in more stringent documentary requirements such as the introduction of electronic travel authorizations in certain situations (an eTA in Canada) which must be obtained prior to travelling. While all countries accept a passport for identification and citizenship, there are other documents that are recognized in some jurisdictions but not others.

Inuit representatives and organizations expressed concerns with documentation that is accepted for travel across the Canadian/U.S. and Canadian/Greenland borders. Some of the issues related to the process and length of time it takes to obtain a passport. In addition, many community representatives indicated that the only cross-border travel they would undertake

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<sup>3</sup> There is an Inuit population in Russia, the Siberian Yupik Region. While they were not included as part of this review, they are represented by the Inuit Circumpolar Council (ICC) and were identified by Inuit representatives as part of the larger community.

was limited to other communities in the Arctic where they have strong cultural ties. They would not be getting a passport for any other purpose than to continue the type of visits they did freely in the past so do not understand why a passport is necessary. They were interested in exploring the ability to use another type of identity document such as a Beneficiary Card (used in Canadian Inuit territories). They felt that if they could use a document needed for other purposes it would be more practical for them.

The U.S. has introduced a model which could be examined in considering how a Beneficiary Card might be modified to be used as a travel document. The U.S. government has accepted Enhanced Tribal Cards (ETC) produced by at least ten federally-recognized Native American Tribes as meeting the requirement for identification at the border. These cards must meet required security standards. The federal government conducts testing and auditing processes to ensure that the required standards/controls are met before approving their use.

A similar process could be developed for Inuit communities in Canada. While First Nations People in Canada who are registered under the *Indian Act* have access to the Secure Certificate of Indian Status (SCIS), this does not apply to Inuit People. Not only could a modified Inuit produced Beneficiary Card address that situation, it would also provide an opportunity to introduce a partnership model with Inuit organizations. Both the Inuvialuit Regional Corporation and the Inuit Tapiriit Kanatami (ITK) expressed interest in this option. Should the new card meet the U.S. security standards, much like Enhanced Drivers Licenses issued by some provinces, they could potentially be recognized for entry into the U.S.

While a secure card could also hold potential for travel to Greenland, there are other considerations that may be of concern to the EU as Greenland has benefits under the Schengen Agreement. This agreement covers a number of European countries and allows visitors to have their identity and admissibility confirmed at the point of entry to the first country they enter and then they can travel freely within that group of countries without further border intervention. They require a passport for this identity verification.

A second consideration is the requirement for Greenlanders to obtain an eTA when travelling by air to Canada (an eTA is not required if entering Canada by other modes, e.g. marine). While U.S. citizens are exempt from this requirement, Greenlanders are not, and must provide passport information to get an eTA. Should other identity document options be explored, this requirement would need to be re-considered as well. Likewise, the EU is developing a similar system as the eTA and exemptions would need to be negotiated.

## **2. Passage and Clearance Processes**

In the Canadian Arctic there are a limited number of CBSA ports of entry and they are smaller offices with only a few CBSA officers. The geography of the Arctic is vast with many communities in very remote locations. This can cause significant issues when individuals want to travel to visit with other members of their community across the border, both in terms of the means of transportation and the ability to access the border clearance process.

A good example of the unique scenario in the Arctic is the Pikialasorsuaq area. There are small settlements surrounding the Polynya which have strong historical ties and family connections. A traditional clearance process would involve travellers entering Canada to go to Iqaluit (the nearest CBSA Port of Entry) or paying to have an officer travel to the remote place of arrival to conduct the clearance. Neither of these options is feasible given the distance and the cost involved. While there have been alternative clearance processes arranged by CBSA to accommodate requests by Inuit groups, they are typically one-off situations. There is no formally designated clearance process that applies to these remote areas. The Inuit who were

interviewed felt that there should be an alternate process that takes into account the unique geography.

Clearance processes that are typically used at the land border and in more populated areas are not easily translated to remote areas like the Arctic. These are areas which would be suitable for some form of alternate reporting. CBSA is currently developing a Remote Strategy and some of the CBSA programs and/or initiatives that are being evaluated could be beneficial to Arctic cross-border travel. Concepts include arrangements to obtain information in advance from travellers coming to Canada so that they can be risk assessed and pre-cleared to enter, if approved; reporting on arrival via video or a mobile device; and/or the development of a program for specific groups of Inuit, where they are determined to be low risk and do not require a face-to-face clearance for each arrival.

One consideration will be how to ensure the security of any special clearance process, particularly if CBSA does the clearance remotely. There are many approaches that could be considered, including utilizing existing resources/organizations operating in the North. Many federal departments have operations in the Arctic. There are also Inuit groups that are working with government and external organizations to assist in monitoring activities (e.g. vessel traffic, wildlife, etc.) and to provide support for national security and public safety. One such group is the Canadian Rangers who are part of the Canadian Armed Forces (CAF) Reserve and made up of Inuit, Métis, First Nations and non-Indigenous men and women, depending on the region. Another example would be the Inuit Marine Monitoring Program (IMMP), a Nunavut Tunngavik Inc. initiative that is Inuit-led and owned, supported by Oceans North and Tides Canada, and uses a couple of hunters from each community.

A process could be established with one or more of the existing organizations to designate individuals to confirm identity and/or undertake the clearance process at the point of arrival into Canada or to perform more of a monitoring function (including random checks) to identify any potential issues. There could also be Inuit hired in various locations to perform specific activities for the CBSA on a part-time basis or as required to verify travel and identify anomalies requiring specific intervention.

The issue of admissibility is also critical to consider in addressing mobility issues for the Inuit. Any foreign national who is convicted of a crime (e.g. related to alcohol, firearms, and domestic abuse) is considered inadmissible to Canada. It will be important to examine how these restrictions impact on the Inuit population in Greenland and Alaska who want to travel to and from Canada.

Inuit representatives interviewed felt that the clearance processes used in the U.S. and Greenland were more streamlined. The U.S. processes are similar; however the recognition of a broader range of documents and the status of certain Indigenous groups is helpful at the border. In the case of Greenland, the police are responsible for border enforcement and go to the remote point of arrival to undertake document verification and the clearance process.

### **3. Restrictions on the Movement of Goods**

Concern was expressed regarding the restrictions on the movement of goods across the border. This included both goods for personal use and the potential for some level of trading. There were a number of examples that were provided which ranged from items that are identified as endangered species and the regulations covering live animals, to the rules on importing and exporting of goods which limit their use and may require permits and duties.

Visiting with other communities is only part of the solution. Being able to transport a variety of goods is very important for individuals in the Arctic, culturally and for very practical reasons. This area is one that can be quite complex given the number of federal departments that are involved in the controls over the large variety of items that can be transported across borders.

While all countries have restrictions on importing and exporting goods, the Inuit consulted felt that there should be consideration given to a much broader list of exemptions that would support their daily lives. Input provided by the ITK and the ICC indicated that the U.S. has a list of exemptions under the U.S. Fish and Wildlife Service which is considered helpful. They also indicated that trading of goods across the Arctic between nations has not been fully explored.

#### **4. Restrictions on Visits**

The Canadian immigration legislation, regulations and policies are perceived by Inuit groups as not supporting the strong cultural and family ties that exist between communities. Inuit from the U.S. and Greenland are considered to be foreign nationals with no recognition of special status. The rules around the length of visits and their purpose apply equally to any other foreign national. Visitors are generally authorized to remain in Canada up to six months and then must apply for an extension, work or study permit, depending on the nature of the visit.

There is a desire to have the freedom to visit more easily without restrictions on the length of stay and the current processes which can be time-consuming and cumbersome. Historically the Inuit were able to visit freely with other communities and family members and engage in hunting and fishing and other activities together. Children were able to spend time in different locations and community members want the opportunity to have their children attend school or have school exchanges without the need for permits.

#### **5. Immigrating Between Countries**

The process for Indigenous individuals immigrating to Canada was identified as being difficult and time consuming. One comparison that was made was with the U.S. The fact that the U.S. recognizes a right of entry to certain Indigenous Peoples from Canada, in the spirit of the Jay Treaty mobility principle, is an advantage for Indigenous People from Canada who wish to move to the U.S. Eligible individuals are able to enter, work and reside in the U.S. without obtaining proof of lawful permanent resident status, but should they wish to do so, are able to access an expedited process to obtain a permanent resident card (commonly known as a Green Card). Inuit representatives indicated that the process can be completed within a few weeks to a couple of months.

Canadian Inuit would like to have a process in Canada that recognizes members of the Inuit community who currently reside in Alaska and Greenland, and wish to relocate to Canada on a permanent basis, as distinct from other foreign nationals. Potential options could be to create a separate class in Canadian legislation with its own immigration process or to establish a streamlined (fast track) process within existing requirements. More review is required to determine what are the significant differences with the U.S. and Greenland systems and whether other changes should be pursued.

## General Observations and Conclusions

The challenges that have been identified by the Inuit in the Arctic align to a great extent with the issues raised with the Ministers Special Representative (MSR) in the First Nations review. However there are some key differences which will impact on the potential solutions needed to address these issues for the Inuit.

One key difference with the Inuit situation is the fact that there is more than one international border to consider. In addition to the U.S, there are the governments of Greenland, Denmark and the EU, as well as provinces, territories, states and Inuit settlement claims organizations. It may be difficult to identify solutions that cover all situations equally, especially in terms of reciprocity with other countries.

Another difference relates to the remote geographic nature of northern communities and the type of cross border movement that occurs in the vast majority of cases, i.e. marine and air as opposed to land border crossings, the exception being entry to and from Alaska from Inuvialuit which is often at a land Port of Entry (POE). The geography of the Arctic is vast and there are many small communities that are widely scattered covering a number of countries. Many of the areas populated by the Inuit are remote and the traditional harvesting activities (hunting, fishing and trapping) are critical to their ability to survive in the North. Historically, the Inuit have moved from community to community to be able to undertake these activities, to share and trade goods, and to support one and other. Barriers to the movement between communities is a real challenge. Any solutions will need to be tailored to meet this environment.

One factor that could inhibit the early resolution of the identification and border clearance issues is communication in the North. While Greenland has installed fibre optic networks throughout the country, communication networks are not as advanced in Canada's northern communities. Enhancements in this area would be very beneficial to the implementation of remote clearance processes.

The *Torres Strait Treaty* has been mentioned as a possible model to consider in terms of a way forward. It is the agreement signed between Australia and Papua New Guinea and provides a framework for the management of the common border area. The treaty deals with protections for the traditional way of life for the residents of various communities and for the commercial fisheries. "A special provision of the Treaty allows free movement (without passports or visas) between Australia and Papua New Guinea for traditional activities. This is only for Torres Strait Islanders and for coastal people from Papua New Guinea who live in and keep the traditions of the region."<sup>4</sup> There are restrictions on how far residents can travel and on certain activities.

While it may be difficult to adopt this approach in the broader Arctic, it could be useful as a reference in looking at what type of arrangements could be explored in the Canadian context. It may have stronger potential to deal with discrete areas of the Arctic, such as the Pikialasorsuaq region, and should be examined more closely in that regard.

Of particular note was the level of engagement from both Inuit representatives and government officials who were consulted for this review. There was clearly an interest by all parties, not just in terms of identifying issues, but also in looking at ways to improve border mobility for Inuit

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<sup>4</sup> There is a description of the *Torres Strait Treaty* on the Government of Australia website and access to the Treaty itself. <https://dfat.gov.au/geo/torres-strait/Pages/the-torres-strait-treaty.aspx>

Peoples in the Arctic. Their input and support was critical to this review and sets the stage for making progress on this initiative.

## Potential Options

It is recognized that many measures that could address the identified issues will require legislative and regulatory change; require coordination with more than one department; and some will require negotiations with other governments. The options outlined in this section are based on the observations of the consultant conducting this review. They may provide the Government of Canada potential initial areas for consideration in examining the issues that have been identified. While there are some lead agencies noted in the options, most would still require a whole of government approach moving forward.

- All government agencies implicated could consider reviewing their consultative approaches with Inuit organizations to ensure that partnerships are well established regionally and at community levels to complement the current national consultative frameworks.
- The CBSA has an Indigenous Framework and Strategy and continues to examine and refine their approach to border management issues. Given the positive steps taken to date, using this framework to further identify and address specific Inuit concerns could be helpful.
- The Inuvialuit Regional Corporation proposal to examine the potential of using an Inuit produced Beneficiary Card for identification and travel could be reviewed. Examining the U.S. requirements and approval process for the Enhanced Tribal Cards would provide assistance in determining what changes might be required to meet security and other conditions.
- It would be beneficial to confirm the specific issues Inuit have with the Passport and identify any short-term (interim) measures that could be taken to simplify the process to obtain a passport in more remote areas.
- CBSA continues to expand its use of alternate border clearance processes and examining the issues raised by the Inuit could ensure processes are developed which focus on facilitating entry into Canada in remote areas of the Arctic. Partnerships with other government departments and Inuit organizations could be explored to support this endeavour.
- CBSA could explore the introduction and testing of a clearance process (perhaps through a pilot) designed to address the specific concerns in the Pikialasorsuaq Region.
- The Government of Canada could undertake consultations to identify the most common items that Inuit would like to import for personal use with the objective of developing a list of exemptions from import restrictions.
- IRCC could examine the potential of eliminating the requirements to obtain work and study permits for Inuit in Greenland and the U.S. and, as an interim measure, look at ways to facilitate the current process to make it easier for applicants.
- IRCC could undertake a review of the immigration processes used by the U.S. and Greenland to identify differences from the Canadian approach and potential changes that would expedite the Canadian process for Inuit peoples wishing to immigrate permanently to Canada.

- The Government of Canada could examine the current connectivity (communications networks) in Inuit communities in the Canadian Arctic and look at proposed enhancements that are planned, or would be needed, to provide technological solutions to enhance border management.
- The Torres Strait Treaty between Australia and Papua New Guinea could be reviewed to determine the potential application of this model (or something similar) in the Canadian context, in particular for the Pikialasorsuaq Region.
- Given that a full resolution of many issues would require international agreements, early discussions with the governments of Alaska/U.S., Greenland/Denmark and the EU would need to occur to determine their interest and to set up the mechanisms for more detailed consultations and negotiations.