

LEGISLATIVE ASSEMBLY OF THE
NORTHWEST TERRITORIES
10TH ASSEMBLY, 9TH SESSION

TABLED DOCUMENT NO. 1-87(1)

TABLED ON FEBRUARY 11, 1987

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**BOUNDARY AND CONSTITUTIONAL AGREEMENT FOR THE
IMPLEMENTATION OF DIVISION OF THE NORTHWEST TERRITORIES**

**BETWEEN THE WESTERN CONSTITUTIONAL FORUM AND
THE NUNAVUT CONSTITUTIONAL FORUM**

January 15, 1987
Iqaluit, Nunavut

The residents of the Northwest Territories decided by plebiscite on April 14, 1982 that the Northwest Territories will be divided.

On this day January 15, 1987 in the Northwest Territories, the Western Constitutional Forum (WCF) and the Nunavut Constitutional Forum (NCF) which together make up the Constitutional Alliance of the Northwest Territories have reached agreement on issues required to implement division, namely the location of a boundary and a number of other issues which relate to the establishment of two distinct political jurisdictions; an eastern region to be called Nunavut and a western region which is as yet unnamed.

This agreement and the constitutions for and boundary between the eastern and western regions are subject to formal ratification in accordance with Part I, section 5 of this agreement.

PART I: MATTERS OF GENERAL CONCERN

1. The Boundary

The boundary dividing the eastern and western jurisdictions will have three basic components:

- a) the ratified boundary delineating the Dene/Metis and TFN Claims Regions from the 60th parallel to its point of intersection with the Inuvialuit Settlement Region;
- b) thence along the eastern boundary delineating the Inuvialuit Settlement Region and the TFN Claims Region to the point latitude 80° 00' N and longitude 110° 00' W, and
- c) thence along longitude 110° 00' W to the North Pole.

Attached as Appendix "A" to this Agreement is a map and written description of the boundary referred to above.

The Dene/Metis and Inuit overlap agreement dated May 9, 1986 and the overlap agreement between the Inuit and Inuvialuit provide for the protection of those rights and interests of the Inuit and other groups which extend across Claims and Settlement Region boundaries.

The new constitutions of the eastern and western jurisdictions will require the respective governments to protect actively in the exercise of their powers, the non-resident aboriginal rights guaranteed and interests recognized in the ratified overlap agreements. In order to protect and enhance these agreements, provision will be made in the constitutions of both jurisdictions to require co-operation between governments in decisions relating to non-resident aboriginal rights and interests.

For the effective management of trans-boundary interests generally, provision shall also be made for co-operation in management and use respecting resources, harvesting and other matters as may be agreed upon.

2. Constitutional Mandates and Agenda of the Forums

The WCF continues to be responsible for the development of a constitution for the western jurisdiction and the NCF continues to be responsible for the development of a constitution for Nunavut. For greater particularity, each Forum is responsible for:

- a) reaching an agreement among Forum members on a new constitution;
- b) overseeing public consultation and the formal ratification of the proposed constitution, and
- c) in co-operation with the Government of the Northwest Territories, negotiating with the Government of Canada the nature and scope of the constitution, appropriate financing and revenue-sharing arrangements, and such other arrangements as are necessary for the creation of each territory.

The NCF and WCF commit themselves to completing the work outlined in sub-sections a), b) and c) above in accordance with Appendix "B" attached. In the interim the NCF and WCF shall also work together on research and strategies for the two constitutions. It is recognized that while the two constitutions will provide for public governments which respect the rights of all residents, the two constitutions must also recognize, affirm and guarantee the unique rights of the Inuit, Dene, Metis and Inuvialuit, including their land claims rights and their rights of self-government.

3. Regional Government

Both Forums agree that communities will have the right to form regional governments within each jurisdiction and this shall be recognized in the two constitutions.

4. Government Services

A major objective of division is to improve the quality of government and the delivery of services to citizens. Both Forums recognize that adequate funds must be provided by the Government of Canada to ensure that in the process of division, the level and quality of services presently available to N.W.T. residents and the rate at which capital needs are met are at least maintained. Both Forums commit themselves to pursuing a guarantee of adequate funding for division from the Government of Canada.

5. Ratification

The members of the WCF are the Dene Nation, the Metis Association of the N.W.T., and appointed members of the Legislative Assembly of the N.W.T. residing in the western N.W.T. The members of the NCF are the Inuit Tapirisat of Canada, Tunqavik Federation of Nunavut, representatives of each of the Regional Councils, representatives of each of the Regional Inuit Associations, and appointed members of the Legislative Assembly of the N.W.T. residing in the eastern N.W.T.

This agreement and certain decisions it contemplates are subject to formal ratification as follows:

- a) Ratification of the Dene/Metis and Inuit claims boundary between the two claimant groups, pursuant to the Dene/Metis and Inuit overlap agreement, and
- b) Approval of this Agreement by the Legislative Assembly and the other leaderships from each Forum whose representatives are signatories, and
- c) Ratification of the proposed boundary for division by a majority of voting residents in an NWT-wide plebiscite. Following approval of the Agreement, the Forums shall ask the Office of the Legislative Assembly to conduct the plebiscite in a fashion similar to the way in which that Office conducted the 1982 plebiscite on division. In addition the results of the plebiscite will be reported by total votes across the N.W.T., by community, and from within each proposed new territory. Suggested wording for the question is attached as Appendix "C" to this Agreement. Both Forums must finally approve the question appearing on the ballot, and
- d) Ratification of the constitutions for the two jurisdictions when completed. Ratification in each jurisdiction shall be by the people of the jurisdiction, and shall respect basic democratic principles. The WCF will conduct a plebiscite of western residents to ratify a western constitution, unless when the constitution for a western jurisdiction is completed all WCF members agree on an alternate process. Non-approval of either constitution may be interpreted only as non-approval of a specific constitutional proposal and can not abrogate or diminish in any way the right of self-government of the Inuit, Dene, Metis and Inuvialuit.

Division of the Northwest Territories may follow immediately upon the completion of this ratification process, and the two Forums are committed to achieving division by October 1, 1991. However, this ratification process notwithstanding, certain aspects of division may be implemented prior to division with the mutual agreement of the two Forums.

II: MATTERS OF CONCERN TO THE WESTERN CONSTITUTIONAL FORUM

The following matters are of exclusive concern to the WCF. While the NCF supports the aspirations of the residents of the western region to establish a jurisdiction suited to their needs, the NCF does not necessarily adopt the principles which follow and is not bound by them.

1. Principles of Constitutional Development for the Western Jurisdiction

Aboriginal people will likely constitute a minority of the population in the western territory after division. Consequently the Dene, Metis and Inuvialuit are concerned that their political rights, their culture and their future as individuals and as aboriginal peoples be secured to their satisfaction in the new constitution for the western jurisdiction. Non-aboriginal residents of the north recognize and accept the need to address the concerns of the Dene, Metis and Inuvialuit within the context of a public government system based upon democratic principles. To this end all parties to the WCF agree that the following principles shall be addressed and procedure used in the constitutional proposal being developed by the WCF.

- a) The overriding objective of a new constitution is to build a system of public government which will protect the individual rights of all of its citizens and the collective rights of its aboriginal peoples and whose overarching principle is one of bringing peoples together.
- b) To accomplish this objective a new constitution must balance two principles:
 - i) The protection of individuals in that each and every bona fide resident of the western jurisdiction should have the right to participate in and benefit from public institutions, programs and services according to basic democratic principles guaranteed in the constitution, and
 - ii) The protection of the Dene, Metis and Inuvialuit in that each aboriginal community in the western jurisdiction shall be explicitly recognized in the constitution, and mechanisms shall be entrenched to enable each community to flourish as a distinct cultural entity regardless of its proportion of the total population.
- c) Some of the issues which shall be included in a new constitution in a fashion acceptable to all parties in order to balance these two principles are:
 - i) Government decision-making should rest as closely as possible with those governed; people and communities should have control over those matters which affect them exclusively and they should have input in and influence over those decisions which affect them as well as others;
 - ii) Aboriginal rights relating to language, culture and any other political rights which are not included in claims agreements shall be entrenched in the constitution and means shall be found to help ensure that all aboriginal rights are protected;
 - iii) There shall be a guarantee of aboriginal participation in government and significant impact on decision-making in the future including perhaps exclusive aboriginal jurisdictions in limited areas of direct concern to aboriginal people; the focus would be on cultural matters and on the special relationship that exists between aboriginal peoples and the land and the political protections required to ensure its maintenance;
 - iv) Every level of government in the western jurisdiction must have sufficient powers, authority, and resources available to it to enable it to carry out its responsibilities; the level of funding available should be assured and predictable and the restrictions on the uses of these resources flexible;
 - v) In the negotiation of the proposed constitution with the Government of Canada, in the context of recognizing aboriginal self-government, and without prejudice to the negotiation of land claims, the further transfer of powers and jurisdictions from Ottawa shall be vigorously pursued, and
 - vi) The constitution or those parts which address each of these principles and objectives must not be amendable without the approval of aboriginal and non-aboriginal peoples.

- d) It is intended that if negotiations toward a western constitution succeed, they will result in a constitution whose relevant sections are designed to constitute, together with provisions in land claims agreements, the definition of aboriginal self-government in the western jurisdiction. Any such definition must fully reflect any right of self-government held by the Dene, Metis and Inuvialuit.
- e) All substantive decisions of the WCF on elements of the constitutional proposal must have the approval of all members.

2. Provisional Principles for Regional Government in a Western Jurisdiction

As a result of efforts to negotiate a set of specific principles for regional government acceptable to the Inuvialuit, the WCF has adopted a set of principles applicable to regional government throughout the western jurisdiction. WCF members agree that if no aboriginal self-government provisions were to be included in the western constitution, the Beaufort-Delta region and the other regions of the western jurisdiction are guaranteed as a minimum these principles. However, if through the process of constitutional negotiations WCF members agree on a number of features which can be entrenched in a constitution as provisions for aboriginal self-government, WCF members cannot guarantee that trade-offs on these regional government principles will not be required. WCF members are confident that with co-operation, time and hard work they can build a constitution which will generously protect the interests of all aboriginal peoples as well as the rights of each individual citizen. The WCF continues to offer full membership to the Committee for Original Peoples' Entitlement (COPE) and hopes that the Inuvialuit will take part in this work.

The specific provisional principles regarding regional government which WCF members accept are:

a) Right to Form Regional Government

Under the constitution of the western jurisdiction, community governments will have the right to form a regional government.

Subject to the following principles, the territorial level of government will be obliged to recognize and accept regional governments so formed.

b) Formation and Membership

A number of issues relating to the formation of regional governments and membership within them have yet to be decided. These include the method of deciding among and within communities whether the communities desire to form a regional government, the method of establishing regional government, the number of consenting communities required, and the terms upon which a community may exercise its right to withdraw its membership. The structure and accountability of the regional government will be determined by member communities in accordance with democratic principles.

c) Funding

Funding for any regional government will be fair and adequate. In particular a regional government will be assured that insofar as it assumes duties previously held by other governments, it takes over the funding previously available to those other governments.

d) Mandate

The WCF supports regional governments obtaining from the other levels of government: shared responsibility, management and control over certain programs and services, including aspects of education, economic development, local government relations, police services, game management, land use planning and management and of the powers to tax by way of property taxation, business taxes and license fees and amusement taxes.

The WCF does not at present support extending legislative authority to a regional government in these areas, but the WCF agrees that the community and territorial governments should be empowered to delegate such authority.

e) Boundaries

Regional government boundaries may describe such a geographic region as is appropriate considering the community composition of the regional government at any point in time. Boundaries would be established for administrative purposes only and would change as individual communities join or withdraw from a regional government from time to time.

f) Official Languages

Official working languages of a regional government will include the regional aboriginal language or languages, and English.

g) Rights to Participate

Every resident of the region shall have an equal right to participate in the regional government and to benefit from its programs and services, but programs and services and the manner of participating in government need not be identical for members of different cultural groups.

h) Public Lands and Resources

Public lands within regional government boundaries and outside community boundaries should be held by the territorial level of government.

Territorial authority over the management of sub-surface resources, on-shore and off-shore, should be exercised in a manner which reflects the needs and interests of all residents in the jurisdiction.

The regional land interests may be considered formally in land use planning and management.

III: MATTERS OF CONCERN TO THE NUNAVUT CONSTITUTIONAL FORUM

The following matters are of exclusive concern to the NCF. While the WCF supports the aspirations of the residents of Nunavut to establish a jurisdiction suited to their needs, the WCF does not necessarily adopt the principles which follow and is not bound by them.

1. Principles of a Nunavut Constitution

Over nearly five years the NCF has consulted with communities, individuals, representative groups and associations throughout Nunavut on the basis of accepted and familiar public conventions of Canadian constitutional practice in order to develop a Nunavut constitution:

- a) which strengthens Canadian sovereignty and democratic government in the north;
- b) which opens the opportunities of full Canadian public participation to the residents of Canada's arctic villages, towns and outposts, and
- c) which reflects the interests and meets the needs of Nunavut's unique Inuit and settler society.

This work has been consolidated in a document, Building Nunavut: Today and Tomorrow, approved in a Nunavut constitutional conference in Coppermine in early autumn, 1985.

Two further issues requiring particular attention are Inuit claims settlements and implementation. The Nunavut concept itself grew logically and naturally out of the movement to settle Inuit claims. NCF has always insisted that a special feature of Nunavut's larger constitutional foundation be the settlement of the permanent non-Inuit population, that population is free to join with all other residents in the open and free activity of governing Nunavut through conventional political processes. The complementarity of the institution of claims settlements and of general politics (or "public government" as it has become known) for the efficient functioning and accountability of collective life within Nunavut must be assured.

The other issue is the importance of active involvement of the claims and other Inuit associations which participate in NCF in the design of implementing government in Nunavut.

2. Principles of Implementation

NCF has long recognized that, moral and constitutional principles apart, Nunavut would succeed or fail through practical implementation of an administrative system responsive to the state of politics, culture, society and economy prevailing, and to the elected legislature of Nunavut.

Specific areas of concern have emerged from the research, consultations and consensus-building conducted by NCF. These include the following:

- a) Nunavut as the first native majority jurisdiction within the Canadian federation has a particular obligation to structure its institutions so as to reflect Inuit culture and Canada's pioneering work in giving aboriginal interests political and legal shape through the twin processes of claims settlements and national constitutional amendments. Nunavut should be a showcase of progress in these areas.
- b) The development of a workable form of regional authority within Nunavut, reflecting the strength of community life as the centre of Nunavut society and the need for a strong Nunavut government capable of dealing with the large challenges facing the Nunavut region, is a priority. Regional institutions in Nunavut have helped provide the experience and infrastructure needed for a successful Nunavut government.


- c) A policy of making Inuktitut an official language of Nunavut and a language of teaching is essential, and requires both statutory commitment and phased introduction.
- d) Decentralisation of administrative centres so as to spread both the benefits and impacts of public sector development has been agreed. This will also help attract local, qualified Inuit into jobs which otherwise would be too remote from their family commitments and their cultural district.
- e) The assurance of full human rights within Nunavut, especially to guarantee to non-Inuit their opportunities for personal fulfillment and social and political life, have been studied and a course of action proposed. Such assurances are an essential political commitment of NCF.
- f) The establishment of a functional federal-Nunavut working relationship and sharing of powers, responsibilities and revenues in respect of ocean areas is required.
- g) The contribution and role of the Inuit north to Canada's arctic sovereignty interests and the conduct of a northern foreign policy have been highlighted in Parliament's special international relations committee report of June, 1986, and in the federal foreign policy statement of December, 1986, and should be acknowledged in the Nunavut constitution.
- h) A suitable preamble to a Nunavut constitution highlighting the principles of conservation and wise management of the arctic environment and resources, the permanence of Nunavut as a cultural homeland of Inuit, and the fact that Inuit have actively sought and successfully negotiated full participation in the Canadian federation, should be prepared.

3. Principles of Federal-Nunavut Relations

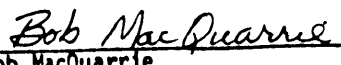
Inuit through their organizations and public bodies have developed a unique and uniquely productive relationship with federal authorities, despite periodic disagreements. It is proposed by NCF that this situation be continued in the development of the Nunavut government. As has been repeatedly stated in NCF documents, a core of secure rights relating to cultural identity and economic resources is required as the "critical mass" of a Nunavut political settlement. Beyond that, flexible arrangements for the acquiring of experience and sharing in management decisions by Nunavut authorities can be creatively explored and implemented through administrative arrangements.

Executed this 15th day of January, 1987 at Iqaluit, Nunavut.

FOR THE WESTERN CONSTITUTIONAL FORUM:



Stephen Kakfwi
President, Dene Nation



Bob MacQuarrie
MLA, Yellowknife Centre

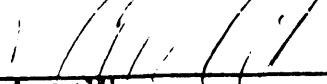


Larry Tourangeau
President, Metis Association of the NWT



James Wah-Shee
MLA, Rae-Lac La Martre

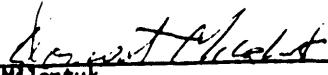
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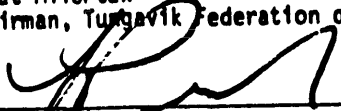
John Amagoalik
Chairman, Nunavut Constitutional Forum



Rhoda Innuksuk
President, Inuit Tapirisat of Canada



Donat Milortuk
Chairman, Tungavik Federation of Nunavut



Ludy Padjuk
MLA, High Arctic

WITNESSES:



Stephen Iveson
Executive Director, WCF



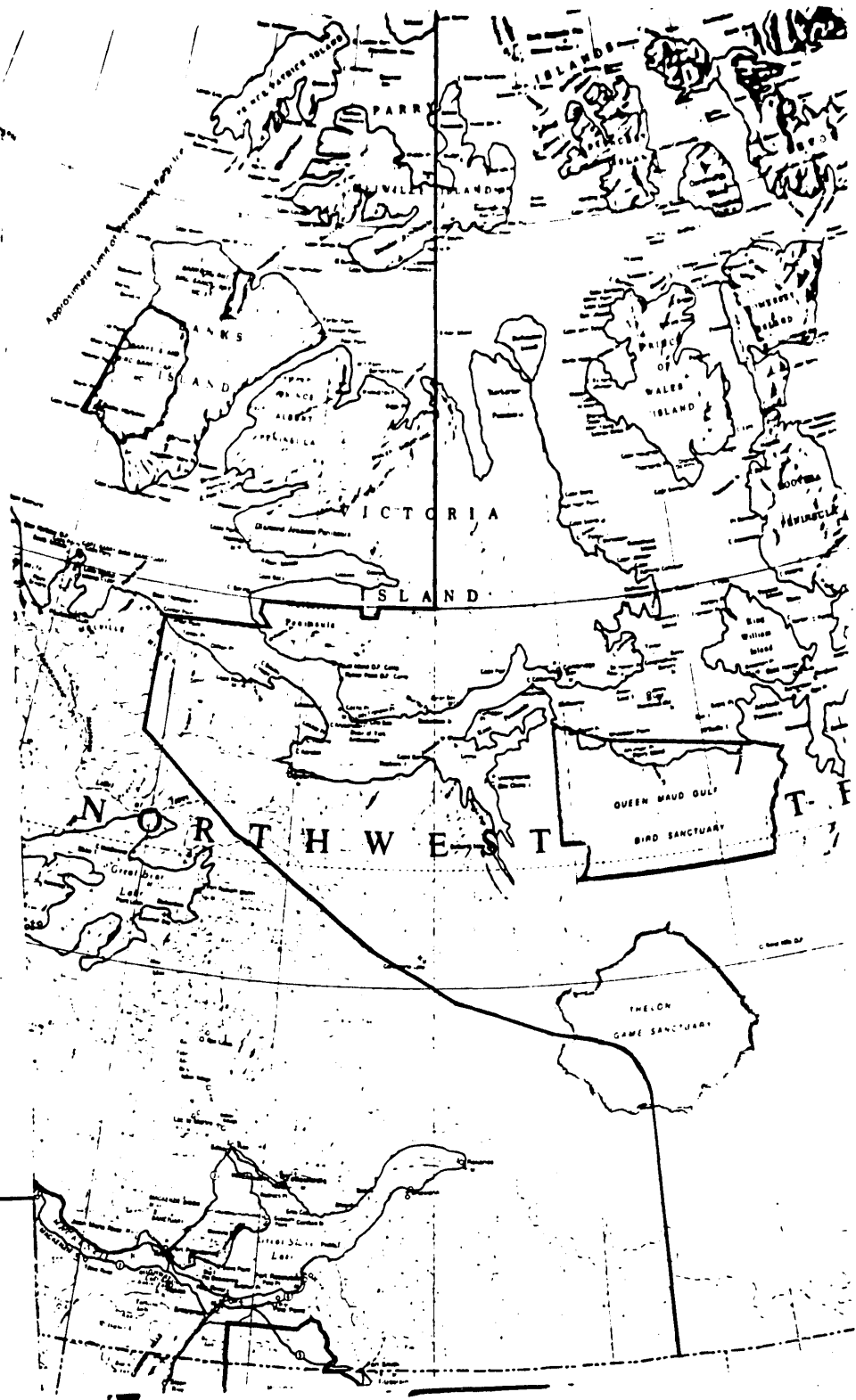
Allen Maghagak
Executive Director, NCF

on behalf of the staff and resource people who contributed to this agreement.

APPENDIX "A"

The tentative boundary is described as follows:

"Commencing at the approximate point latitude of 60° 00' N and longitude 103° 10' W, and thence along the line identified as the Single Line Boundary in Schedule "A" of the Overlap Agreement between the Dene/Metis and the Tungavik Federation of Nunavut dated May 9, 1986 to the point of intersection with the boundary of the Inuvialuit Settlement Region at the approximate point latitude 68° 00' N and longitude 120° 50' 51" W, and thence along the boundary of the Inuvialuit Settlement Region to the point latitude 80° 00' N longitude 110° 00' W, and thence northerly to the North Pole along longitude 110° 00' W."





Nunavut Tungavikhalikinnikku Katimayikyoak **نوناووت كونستيتوشنل فورام** Nunavut Constitutional Forum

63 Sparks Street, Suite 300, Ottawa, Canada K1P 5A6 (613) 594-0158, 0159

NCF DRAFT

SCHEDULE OF EVENTS

January 1987	Constitutional and Boundary Agreement by the Alliance
February 1987	Endorsement of agreement by the N.W.T. Legislative Assembly
Spring 1987	Ratification of the agreement by the two constituents - Nunavut and the Western Territory
Fall 1987	Nunavut Constitution Draft
March 1988	Review of Nunavut Constitution by Nunavut Leadership
Sept/October 1988	Ratification of Nunavut Constitution by residence of Nunavut. (Option: Constitutional Conference)
Remainder 1988 - 1990	Negotiations between Nunavut and the Federal Government/or Implementation of Nunavut Government

APPENDIX "C"

SUGGESTED PLEBISCITE QUESTION

Upon the recommendation of the Ninth Legislative Assembly, a question was put to residents of the N.W.T. on April 14, 1982 asking whether the N.W.T. should be divided. The division of the N.W.T. was approved by a majority and work to establish a boundary agreement was undertaken.

A proposed boundary agreement has now been approved by the Constitutional Alliance of the Northwest Territories and the Tenth Legislative Assembly. The boundary agreed upon is described as follows and outlined on the attached map. If this boundary is approved by a majority of voting residents, a plebiscite will later be held on a proposed constitution in each of the new territories.

On these terms, do you agree with the proposed boundary for division of the N.W.T.?

YES ()

NO ()

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המחלקה המרכזית לביטחון המדינה
משרד הביטחון וההגנה
תל אביב, ישראל

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UN Security Council

UN Security Council

North Pole

80° N

Latitude 80° N and Longitude 110° 00'

60° latitude

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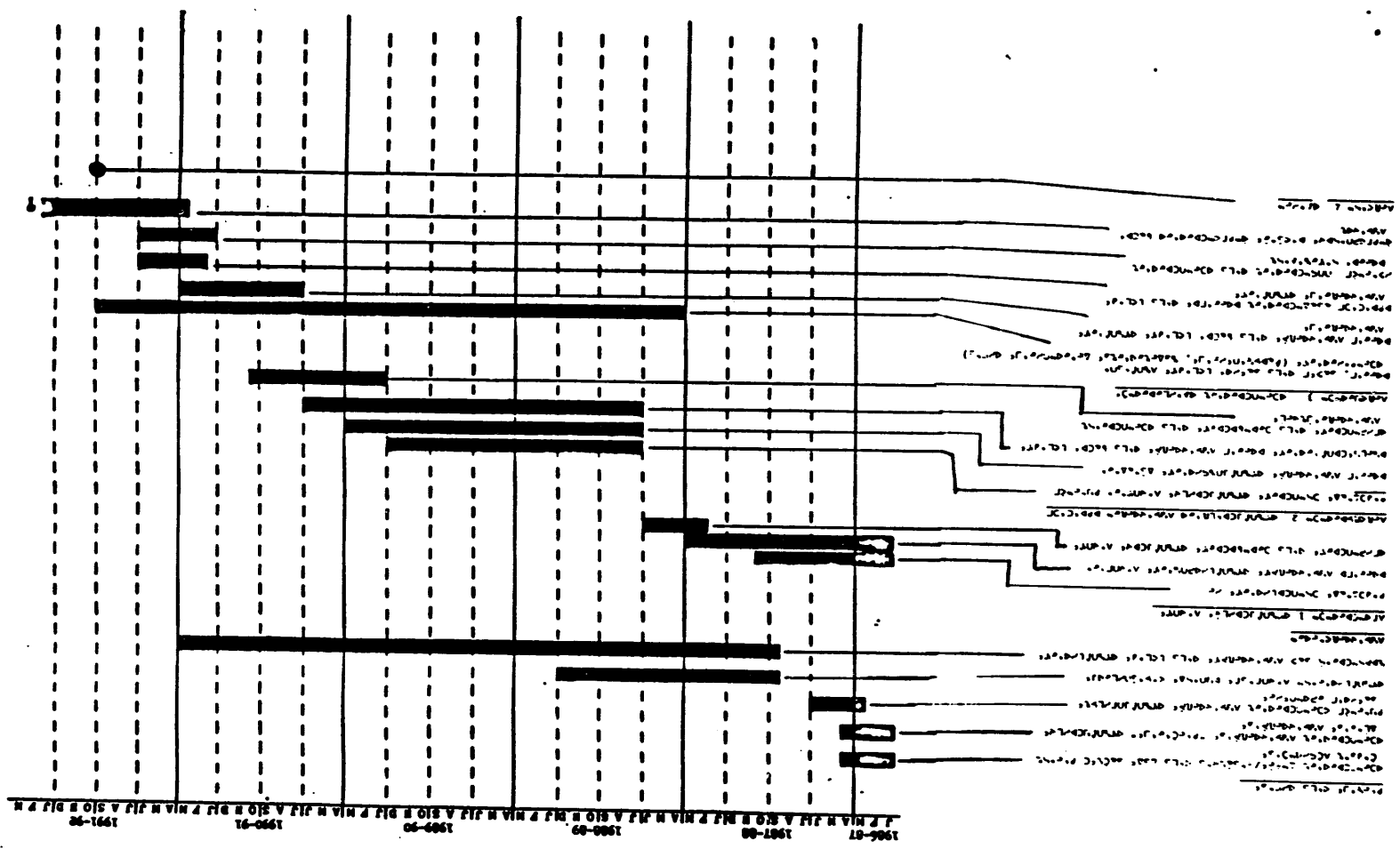
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