1. Introduction

International environmental law has produced major, and not always positive, effects on indigenous northern cultures. New developments in this field could improve the well-being of northern peoples by increased protection of Arctic land, water, and natural resources, or it could erode Native harvesting rights, encourage industrial development in the Arctic, and prove insufficient to protect northern ecosystems. At a time when destruction of habitat for migratory birds in temperate latitudes affects the success of subsistence economies in northern latitudes, when tropical deforestation may destabilize Arctic ice and undermine local village economy, when heavy metals from midlatitudes show up in scientific samples taken at Mould Bay in the Canadian Arctic and air currents carry pollutants from factories in eastern Europe to Barrow, Alaska, indigenous Arctic residents cannot afford to ignore international environmental law.

Those interested in the survival of indigenous cultures have frequently looked to international law to pursue their objectives. International law scholars have turned to international treaties and other international legal documents and organizations in the field of civil, social, and human rights as an alternative to the somewhat bleak prospects of protecting indigenous cultures through domestic law. However, they have paid little attention to international environmental law. The premise of this essay is that indigenous northern peoples may receive more significant benefits and be more profoundly harmed by developments in international environmental law than by changes in the field of human rights law.

International treaties and agreements are by far the most abundant and developed source of international environmental law although customary and case law have made important contributions. Thus, this essay will focus on international agreements and treaties, the statutory component of international law.

In the 1990s environmental issues will no longer be considered "low politics". Environmental concerns are emerging as priorities on the agendas of an increasing number of heads of state. In 1988, all but one national leader addressing the United Nations General Assembly spoke about environmental issues. And the exception, President Reagan, has been succeeded by an administration increasingly vocal about the need for global environmental cooperation. Indeed, one session of the seven nation summit held July 14-17, 1989, was devoted to the environment.

In the 1980s, we have seen significant progress on protection of the ozone
layer. In March 1989, 35 states (including 5 of the 8 Arctic states) signed a new treaty to limit and control transport and disposal of hazardous waste (the Basel Convention). It is expected to enter into force by mid-1990. In the 1990s, we can anticipate expansion of international law addressing transboundary shipment of hazardous waste, export and import of pesticides and other environmentally hazardous products, long range transport of air pollution, production and sale of chemicals that damage atmospheric ozone, climate change, biological diversity, protection of tropical rain forests, and other issues. Through existing conventions and organizations, we can expect tighter controls on marine pollution, increased protection of endangered species, and attention to protecting ecosystems and wildlife habitat. And in September 1989, representatives of foreign ministries and environmental agencies from the eight Arctic nations met to discuss future agreements to better protect the Arctic environment.

In order to determine how the flow of new international environmental law will affect northern indigenous interests, this paper addresses three questions:

1. How have existing international environmental agreements promoted and/or undermined the interests of northern indigenous peoples?
2. How will new developments in the field affect their interests?
3. What opportunities do current developments in international environmental law offer indigenous peoples to protect and further their interests?

2. Existing environmental agreements
Continuation of distinct indigenous cultures and the viability of remote northern communities depend on the health of migratory species and on harvesting rights for indigenous residents. In many cases, treaties regulating the taking of species provide exemptions for harvesting by Natives or aboriginal peoples. A quick review of current issues regarding some of these treaties, however, demonstrates how damaging international laws designed to protect and conserve shared living resources have been to Native interests and highlights how new developments with regard to these treaties and the regimes they establish present new challenges and opportunities for indigenous northerners.

2.1. United States/Canada Migratory Bird Treaty
The 1916 Convention for the Protection of Migratory Birds between the United States and Great Britain (on behalf of Canada), unlike U.S. migratory bird treaties with Japan and the Soviet Union, does not provide an exemption for native subsistence hunting of migratory geese. The 1916 Convention calls for a closed season on hunting migratory waterfowl between March 10 and September 1 each year, prohibiting the taking of important game birds in the Canadian North and Alaska during the time the birds are in the region (with the exception of a short hunt in the autumn). An exception for Native harvesting applies only to birds of lesser importance culturally and economically to indigenous peoples. An effort to amend the treaty in 1979 failed in the face of domestic opposition by sport hunting interests in the United States.

Currently, the Canadian Wildlife Service (CWS) is spearheading an effort to amend the Treaty with a protocol that would secure harvesting rights and