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UNIVERSITY OF
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*History of Perceptions of Jurisdiction
Boundaries and the Tsilhqot'in Land Claim
in Canada*



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Introduction

- What can we learn from historical definitions of boundaries that can be applied in Aboriginal land claims in Canada?
- Need to determine the boundary between different Aboriginal groups and Aboriginal groups and the state in Canada. 370 million aboriginal people world wide.
- Rights spectrum to guide fieldwork
 - United Nations Convention on the Law of the Sea (UNCLOS)
 - James Bay and Northern Quebec Agreement (James Bay)
 - Tsilhqot'in Nation v. British Columbia (Supreme Court of Canada)

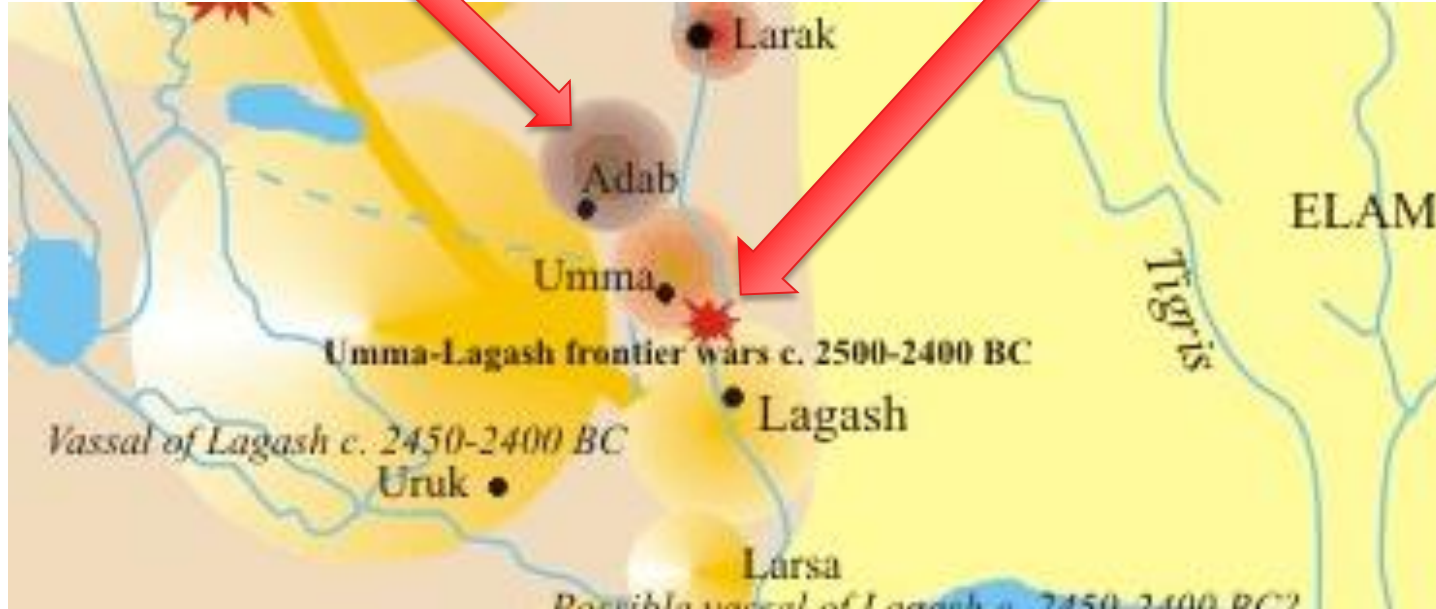
Structure

- Frontiers
 - Eg: Mesopotamia
- Borders
 - line in the sand/map
 - subsequent, antecedent, and superimposed
- Land Relationships (Bohanan 1973)
 - “man-man” – interpersonal
 - “man-thing” – commodity
- Tsilhqot’in
 - title granted for the first time
 - defined rights beyond boundaries.

Frontiers

Traditional Frontier

Early Border



- Frontier of Umma
- Frontiers of Lagash

Mesopotamia 2500 BC

Types of Border: Subsequent

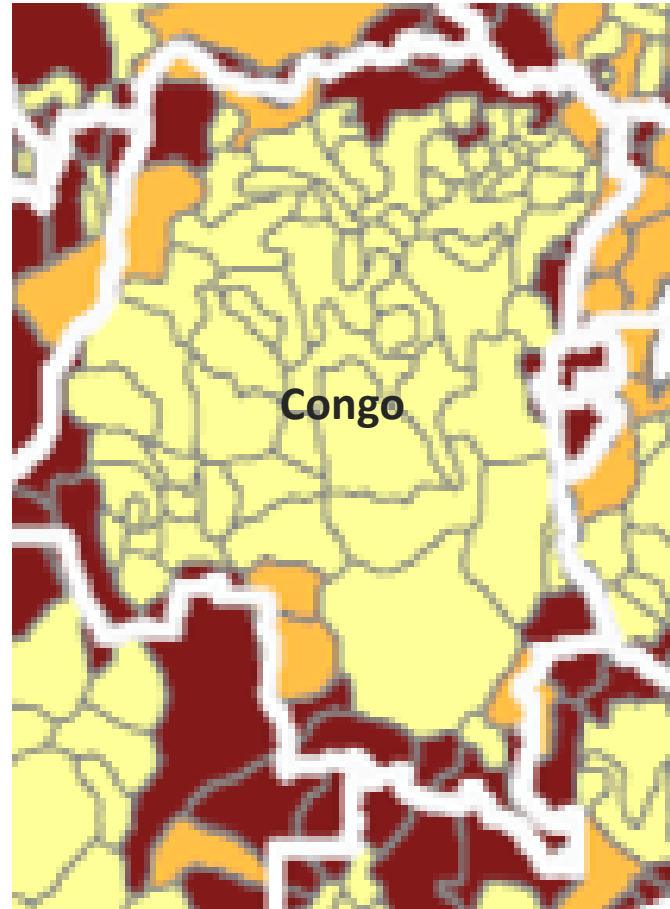






Subsequent

Types of Border: Antecedent

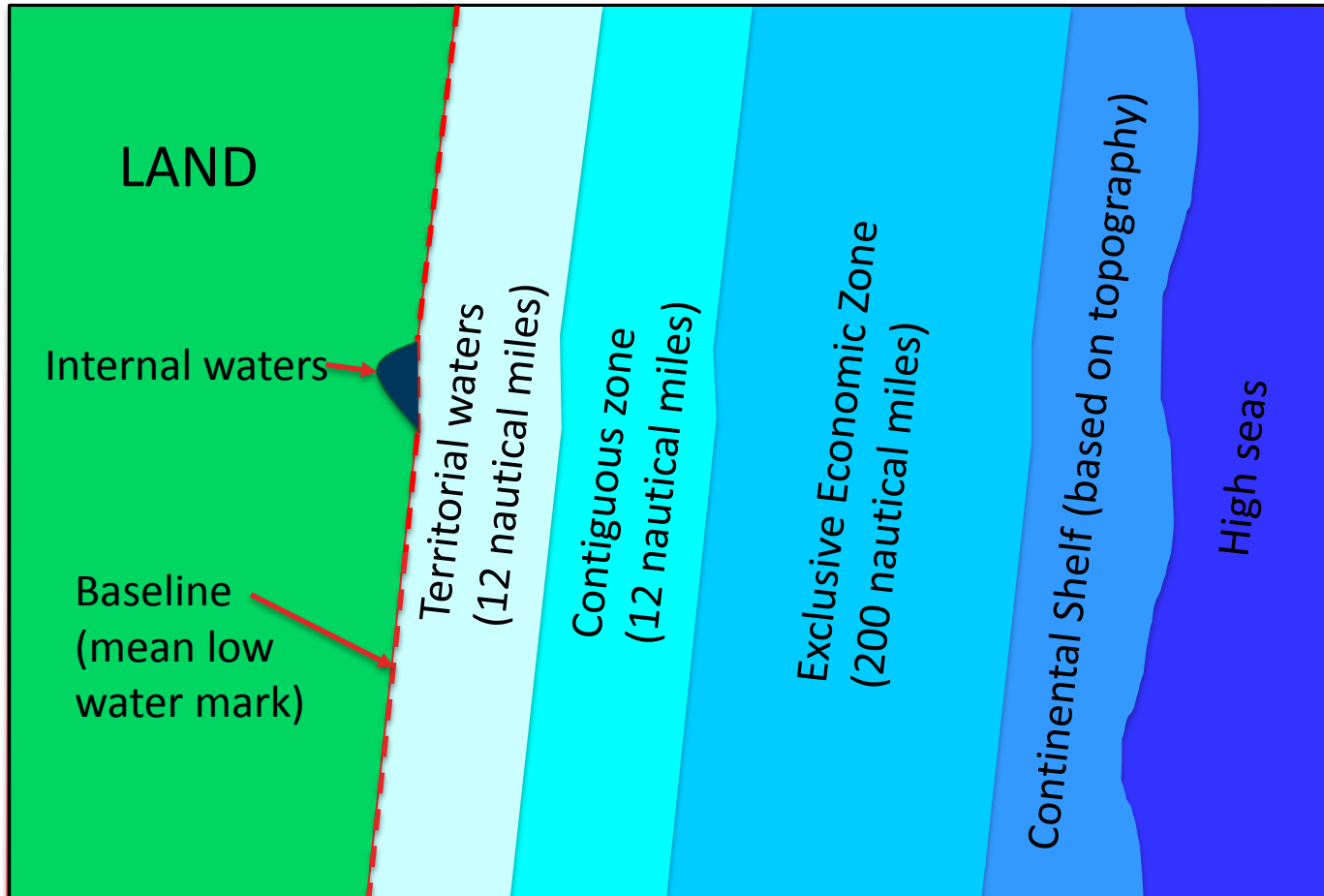


Types of Border: Superimposed

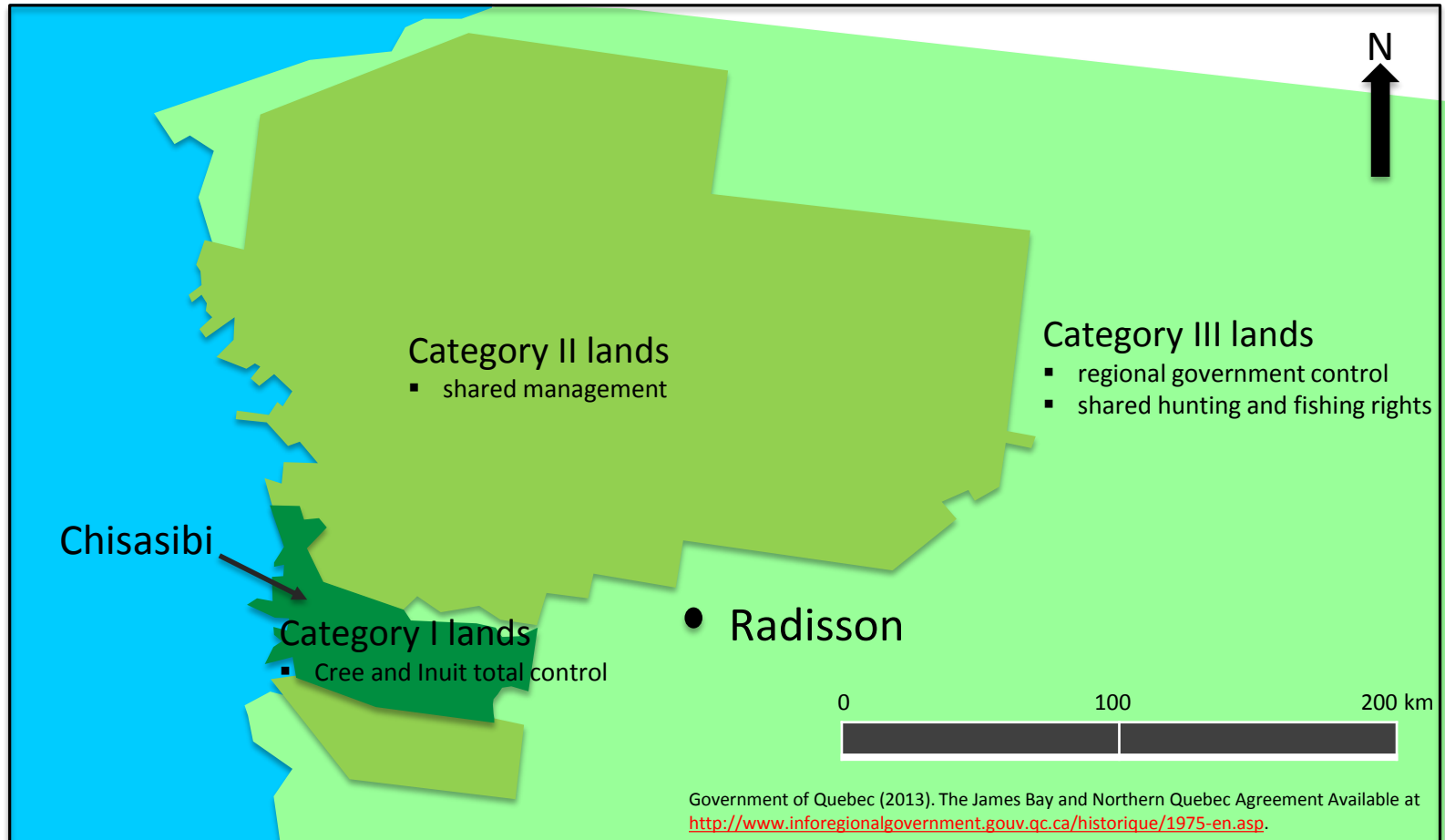


-  National Boundaries
-  Non-Border Groups
-  Border Groups
-  Partitioned Groups >10%

Frontier Analogues - UNCLOS

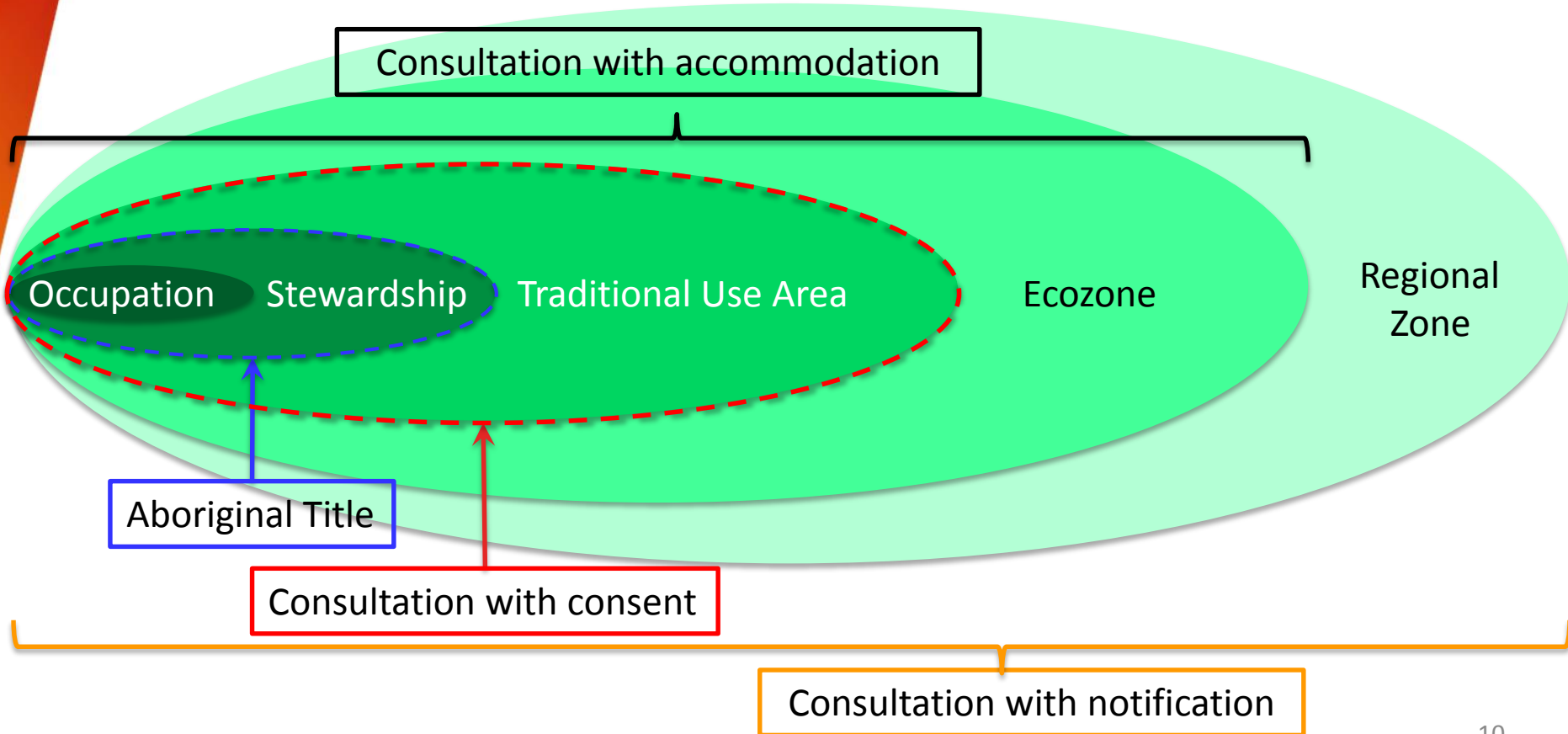


Frontier Analogues – James Bay Agreement



Framework of Different Rights Beyond Title

Spectrum of Rights based on UNCLOS & James Bay Agreement



Conclusion

- Aboriginal Title cannot overlap – Crown's view
- areas of diminished rights
 - can overlap with one another
 - can overlap with Title
 - sui generis servitude





QUESTIONS?

Sui Generis

- exception to the general class
- it is of its own kind
- example: a black sheep. It is a sheep so part of the general class, but is unique in that it is black.

