

NATIONAL ASSEMBLY

SECOND SESSION

THIRTY-SIXTH LEGISLATURE

Bill 93
(2002, chapter 25)

**An Act to ensure the implementation of
the Agreement Concerning a New
Relationship Between le Gouvernement
du Québec and the Crees of Québec**

**Introduced 8 May 2002
Passage in principle 23 May 2002
Passage 12 June 2002
Assented to 13 June 2002**

**Québec Official Publisher
2002**

EXPLANATORY NOTES

This bill ensures the implementation of the Agreement Concerning a New Relationship Between le Gouvernement du Québec and the Crees of Québec, signed on 7 February 2002.

The bill first provides for the creation of the Cree Development Corporation, a legal person established in the public interest with share capital, dedicated to the economic and social development of the Crees. The board of directors of the Corporation is to be composed of eleven members, six of whom will be appointed by the Cree Regional Authority and five by the Government.

In addition, the bill amends the Forest Act in particular to take into account the provisions of the Agreement relating to the forestry regime. For that purpose, it defines the Territory covered by the adapted forestry regime and specifies that the modalities of the regime apply in respect of forest management activities carried out in the Territory.

More particularly, the bill, in accordance with the Agreement, establishes the Cree-Québec Forestry Board and provides for the formation of joint working groups for each Cree community affected by forest management activities in the Territory.

The bill amends the Environment Quality Act to specify that forest operations forming part of forest management plans prepared under the Forest Act are exempt from the assessment and review procedure, on the condition that the management plans governed by the Agreement are the subject of the required consultations with the Cree-Québec Forestry Board and the joint working groups.

Lastly, the bill provides that the annual amount paid by the Government under the Agreement is not subject to any form of taxation, fee or levy and is not subject to privilege or seizure.

LEGISLATION AMENDED BY THIS BILL :

- Forest Act (R.S.Q., chapter F-4.1) ;
- Environment Quality Act (R.S.Q., chapter Q-2).

LEGISLATION REPEALED BY THIS BILL :

- Act respecting the James Bay Native Development Corporation (R.S.Q., chapter S-9.1).

Bill 93

AN ACT TO ENSURE THE IMPLEMENTATION OF THE AGREEMENT CONCERNING A NEW RELATIONSHIP BETWEEN LE GOUVERNEMENT DU QUÉBEC AND THE CREES OF QUÉBEC

WHEREAS on 7 February 2002 le Gouvernement du Québec, the Grand Council of the Crees (Eeyou Istchee) and the Cree Regional Authority entered into the Agreement Concerning a New Relationship Between le Gouvernement du Québec and the Crees of Québec ;

WHEREAS that agreement was approved by le Gouvernement du Québec on 20 March 2002 by Order in Council 289-2002 and was published in French and English in Part 2 of the *Gazette officielle du Québec* of 22 May 2002 ;

WHEREAS le Gouvernement du Québec has undertaken to table in the National Assembly the legislation necessary to the implementation of the Agreement as well as complementary Conventions to be annexed thereto and amending Québec's general law or special Acts accordingly ;

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS :

CHAPTER I

CREE DEVELOPMENT CORPORATION

1. For the purposes of this chapter,

(1) “Cree Regional Authority” means the legal person constituted by the Act respecting the Cree Regional Authority (R.S.Q., chapter A-6.1) ;

(2) “Crees” or “James Bay Crees” means the Cree beneficiaries under the terms of the Act respecting Cree, Inuit and Naskapi Native persons (R.S.Q., chapter A-33.1) ;

(3) “Territory” means the territory referred to in section 2 of the Act respecting Cree, Inuit and Naskapi Native persons.

2. There shall be established under the name of “Cree Development Corporation”, a legal person in the public interest with share capital, dedicated to the economic and community development of the James Bay Crees and having the particular objects of

- (1) supporting the long-term development of each Cree community ;
- (2) developing an original Cree expertise in the field of economic development and the management of development funds ;
- (3) promoting and accelerating job creation for the Crees in the Territory ;
- (4) making the Crees active partners of Québec in the economic development of the Territory ;
- (5) assisting, promoting and encouraging the creation, diversification or development of businesses, resources, properties and industries with a view to stimulating economic opportunities for James Bay Crees and contributing to their general economic well-being ; and
- (6) facilitating the establishment of partnerships between the Crees and Québec as well as with public and private enterprises for the carrying out of development activities in the Territory.

3. In the pursuit of its mission, the Corporation may in particular

- (1) invest in any undertakings in order to create, maintain or protect jobs for James Bay Crees ;
- (2) promote the training of James Bay Crees in economic matters and enable them to increase their influence on the economic development of the Crees and of Québec ;
- (3) stimulate the economy of the James Bay Crees by making strategic investments that will be of benefit to Cree enterprises and Cree workers ;
- (4) promote the development of Cree enterprises by inviting any government and any person, partnership or association to participate in that development by subscribing shares of funds that it may set up for such specific or general purposes ;
- (5) offer financial products deemed appropriate according to the projects involved, such as loans with or without a guarantee, acquisition of financial interests through acquisition of shares, bonds or other securities, grants, loan guarantees and other financial products ;
- (6) make loans or grants for the carrying out of social or community development projects ; and
- (7) manage funds, assets, programs or activities at the request of the Cree Regional Authority, Québec or Canada.

4. The Corporation may be designated under the name, in Cree, of “Wiikaapuu Companeé” and, in English, of “Cree Development Corporation”.

5. The head office of the Corporation shall be located on Cree Category IA lands as defined in Chapter I of Title III of the Act respecting the land regime in the James Bay and New Québec territories (R.S.Q., chapter R-13.1), at the place determined by the board of directors. Notice of the location or any change of location of the head office shall be published in the *Gazette officielle du Québec*.

6. The affairs of the Corporation shall be administered by a board of directors composed of eleven members, as follows :

(1) the Chairperson of the Corporation, who is a member by virtue of office and has two votes at meetings of the board ;

(2) five members appointed by the Cree Regional Authority for a three-year term, each having two votes ; and

(3) five members appointed by the Government for a three-year term, each having one vote.

The members of the board of directors have the same number of votes at meetings of a committee of the board.

On the expiry of their terms, the members of the board of directors referred to in subparagraphs 2 and 3 of the first paragraph shall remain in office until replaced or reappointed. If an office of director is vacant, the vacancy shall be filled in accordance with the rules of appointment provided in the first paragraph, for the unexpired portion of the term of the member to be replaced.

7. The Chairperson of the Corporation shall be appointed for a four-year term by the Cree Regional Authority after consultation with the Government. On the expiry of the Chairperson's term, the Chairperson shall remain in office until replaced or reappointed.

8. Any change in the number of members of the board of directors must be approved by the Cree Regional Authority and the Government and shall not operate to confer on all the members appointed pursuant to subparagraph 3 of the first paragraph of section 6 a number of votes equal to or greater than the number of votes exercised by all the members appointed pursuant to subparagraphs 1 and 2 of that paragraph.

Notice of the change must be published in the *Gazette officielle du Québec*, with an indication of the number of votes exercised by each member of the board of directors.

9. A member of the board of directors present at a board meeting is deemed to have acquiesced in all the resolutions adopted and all the actions taken, except if the member's dissent, as the case may be,

(1) is recorded in the minutes, whether or not requested by the member ;

(2) is the subject of a notice in writing sent to the secretary before the meeting is adjourned; or

(3) is notified, or is the subject of a notice in writing sent by registered mail, to the head office of the Corporation immediately after the meeting is adjourned.

10. The costs and expenses of the members of the board of directors of the Corporation shall be assumed by the party that appointed them.

11. In addition to the provisions of Part II of the Companies Act (R.S.Q., chapter C-38) that are not inconsistent with the provisions of this chapter, sections 89.1 to 89.4, 123.66 to 123.69 and section 123.96 of that Act apply to the Corporation.

The provisions of sections 142 and 188 of that Act do not apply to the Corporation.

12. The capital stock of the Corporation is composed of an unlimited number of ordinary shares without par value, which may only be subscribed by the Cree Regional Authority.

The capital stock is also composed of the classes of shares that members of the board of directors may decide to issue in accordance with law and that entail rights, privileges, conditions or restrictions. Subscription of such classes of shares is not limited to the Cree Regional Authority.

13. The Corporation may issue convertible debentures to any person.

14. The Act respecting the James Bay Native Development Corporation (R.S.Q., chapter S-9.1) is repealed and, consequently, the James Bay Native Development Corporation constituted by that Act is dissolved.

The assets, rights and interests of the James Bay Native Development Corporation shall be transferred, without consideration, to the Cree Development Corporation, which shall acquire the rights and assume the obligations of the former Corporation.

The shares of the James Bay Native Development Corporation are hereby cancelled without payment of any compensation or amount whatsoever to the shareholders.

15. The Government shall designate the Minister to be responsible for the administration of this chapter.

CHAPTER II

VARIOUS AMENDMENTS

FOREST ACT

16. The Forest Act (R.S.Q., chapter F-4.1) is amended by inserting the following section after section 11.2 :

“11.3. The provisions of sections 11 to 11.2 apply, as regards the Territory defined in section 95.7, subject to the provisions of paragraphs 3.63 and 3.64 of the Agreement referred to in section 95.6.”

17. The said Act is amended by adding the following division after section 95.5, enacted by section 84 of chapter 6 of the statutes of 2001 :

“DIVISION IV

“SPECIAL PROVISIONS RESPECTING THE JAMES BAY REGION

“§1. — *Definition and scope*

“95.6. In this division, “Agreement” means the Agreement Concerning a New Relationship Between le Gouvernement du Québec and the Crees of Québec entered into on 7 February 2002, approved by Order in Council 289-2002 dated 20 March 2002 and published in the *Gazette officielle du Québec* of 22 May 2002.

“95.7. This division applies to the territory, hereinafter called the “Territory”, referred to in paragraph 3.3 of the Agreement and shown on the map reproduced in Schedule I, a larger format of which can be found in Sessional Papers No. 1127-20020508 tabled in the National Assembly on 8 May 2002.

From the date of establishment of the northern limit by the Minister, the Territory shall be the territory situated between the northern limit established by the Minister and the east, south and west limits indicated on the map.

The Territory corresponds to part of the territory covered by the James Bay and Northern Québec Agreement approved by the Act approving the Agreement concerning James Bay and Northern Québec (R.S.Q., chapter C-67).

“§2. — *Adapted forestry regime*

“95.8. Notwithstanding any contrary provision, the modalities of the adapted forestry regime provided for in paragraphs 3.7.1 to 3.13.1 of the Agreement and in Parts II (C-2) and III (C-3) of Schedule C to the Agreement apply with respect to forest management activities carried out in the Territory, as do paragraphs 3.1, 3.2, 3.4, 3.5, 3.54 and 3.66 of the Agreement.

The same applies to the rules regarding the determination of the forest resources protection and development objectives provided in paragraphs 2 and 3 of Part IV (C-4) of Schedule C to the Agreement and the rules regarding the planning and monitoring of forest management activities provided in paragraphs 4 to 62 of that Part of the Schedule.

For that purpose,

(1) the identification of a site of interest to the Cree is considered to be a situation provided for in section 35.15 of this Act;

(2) the dispute resolution mechanism provided for in paragraphs 16 to 18 of Part IV (C-4) of Schedule C to the Agreement shall replace, as regards the conflicts referred to in those provisions, the mechanism for settling disputes provided for in section 58.3 of this Act.

“95.9. The agreement holders shall indicate in their annual management plans applicable to the Territory the opportunities for making employment contracts and agreements for the carrying out of forest management activities during the period covered by the plan.

The agreement holders shall also specify in their annual reports of the activities carried out in the Territory the number of James Bay Crees, within the meaning of the Agreement, employed for the period concerned and the number of agreements entered into with Cree enterprises, within the meaning of the Agreement, for that period.

The Minister shall transmit the information to the Cree Regional Authority.

“95.10. The Minister shall ensure, for the purposes of the implementation of the provisions of the Agreement, the integration of the harmonization measures into the general forest management plans and the annual management plans, in particular the standards of forest management provided for in paragraphs 3.9.1 to 3.13.1 of the Agreement and in Parts II (C-2) and III (C-3) of Schedule C to the Agreement, where those standards differ from the standards prescribed by regulation of the Government.

The Minister shall identify, in the plan into which the standards are integrated, the places where they are applicable and, where that is the case, the regulatory standards for which they have been substituted.

The Minister shall withdraw from the plan concerned the standards that are described therein as soon as such standards are prescribed in a regulation.

“§3. — Cree-Québec Forestry Board

“95.11. The Cree-Québec Forestry Board is hereby established.

“95.12. The Board consists of eleven members, including a Chairperson appointed in accordance with section 95.13.

The Government and the Cree Regional Authority, established under the Act respecting the Cree Regional Authority (chapter A-6.1), shall each appoint five members.

The members shall be appointed at the pleasure of the parties and the appointing parties shall provide for their replacement.

The remuneration and travel expenses of members shall be assumed by the appointing parties.

“95.13. The Chairperson of the Board is appointed by the Government on the Minister’s recommendation after consultation with the Cree Regional Authority. The consultation procedure is provided for in paragraphs 3.17 and 3.18 of the Agreement. However, the Government and the Cree Regional Authority may agree on a different procedure.

The Chairperson shall be appointed for not more than three years. The term of the Chairperson is not renewable unless the Government and the Cree Regional Authority agree otherwise.

On the expiry of the Chairperson’s term, the Chairperson shall remain in office until replaced or, as the case may be, reappointed. The replacement or reappointment shall take place within 12 months after the expiry of the Chairperson’s term.

The Government shall fix the Chairperson’s remuneration, employment benefits and other conditions of employment.

“95.14. Unless the Government and the Cree Regional Authority agree otherwise, the Chairperson of the Board may not, under pain of forfeiture of office, be employed by the Government or a State-owned enterprise, or be an employee of or have a financial interest in a forestry undertaking having interests in the Territory.

However, forfeiture of office is not incurred where the interest devolves to the Chairperson by succession or gift, provided the Chairperson renounces or disposes of it with dispatch.

“95.15. The members of the Board shall designate a Vice-Chairperson from among the members appointed by the Cree Regional Authority.

“95.16. The Chairperson of the Board shall preside over the meetings. Another member of the Board designated by the Chairperson may also preside over the meetings in the absence of the Chairperson.

The Board shall hold its meetings anywhere in the Territory. However, the Board may hold its meetings elsewhere in Québec if necessary.

The Board shall meet at least six times each year, unless its members decide otherwise.

Quorum at meetings of the Board shall be a majority of its members, including at least three members appointed by the Government and three members appointed by the Cree Regional Authority.

“95.17. Decisions of the Board are made by a majority of the votes cast. The decisions shall be recorded in the minutes, which must also mention any dissents.

A member of the Board appointed by the Government may execute a written proxy in favour of another member appointed by the Government. The same applies to a member appointed by the Cree Regional Authority as regards another member it appointed.

A member who obtains a proxy may, in the absence of the member who executed it, vote in the place and stead of that member.

“95.18. The members of the Board appointed by the Cree Regional Authority may be accompanied at meetings of the Board by up to two technical advisors. The same applies to members appointed by the Government.

The technical advisors may address the Board and participate in its deliberations but do not have the right to vote.

“95.19. The functions of the Board are to monitor, analyse and assess the implementation of the adapted forestry regime for the Territory, and to review the implementation mechanisms with the joint working groups formed pursuant to section 95.25 as regards the elaboration, consultations and monitoring of the forest management plans applicable to the Territory.

In the exercise of its functions, the Board may recommend to the Government and the Cree Regional Authority adjustments or amendments to the adapted forestry regime applicable to the Territory.

“95.20. Another function of the Board is, in accordance with the provisions of the Agreement, to participate in the different planning processes for forest management activities in the Territory and the different stages of the management of those activities, in particular those pertaining to the elaboration or approval of the general forest management plans and amendments thereto.

For that purpose, the Minister shall transmit the general forest management plans applicable to the Territory and the amendments thereto to the Board for examination and comments before approving or finalizing them.

The Board must transmit its comments to the Minister, where applicable, within 120 days from receipt of the plan. The time limit is reduced to 90 days where an amendment to a plan is to be approved in the period covered by the plan. The Minister may grant an extension if the Minister considers it appropriate.

“95.21. The Board is also responsible for

(1) studying the annual management plans applicable to the Territory after their approval to make known to the Minister, where applicable, its concerns, proposals and comments regarding the plans, particularly in regard to systemic issues concerning the plans or the process of their elaboration or approval ;

(2) bringing to the attention of the Minister its concerns, proposals and comments in respect of the Acts, regulations, policies, programs, management guides and field guides related to forestry and applicable to the Territory, and in respect of the guidelines, directives or instructions applicable to the Territory as regards the preparation of forest management plans ; and

(3) any other responsibilities relating to forestry which the Minister and the Cree Regional Authority may jointly assign to it.

“95.22. The Minister must take into consideration the views and comments expressed or made by the Board and must keep the board informed of the Minister’s position or, as the case may be, of the main reasons justifying the Minister’s decision.

“95.23. The Board may make by-laws to regulate its internal operations.

The by-laws are subject to the approval of a majority of the members appointed by the Government and a majority of the members appointed by the Cree Regional Authority.

“95.24. Each year, the Board shall transmit to the Minister and the Cree Regional Authority a report of its activities.

“§4. — *Joint working groups*

“95.25. Joint working groups are hereby formed for each Cree community affected by forest management activities in the Territory.

“95.26. Each working group is composed of four members, two of whom shall be appointed by the Minister and two others by the council of the Cree community concerned.

The members shall be appointed at the pleasure of the parties and the appointing parties shall provide for their replacement.

The expenses of members shall be assumed by the appointing parties.

“95.27. The Minister and the Cree Regional Authority may agree to modify the number of members of a joint working group to take into account the particular characteristics of the Cree community concerned.

“95.28. The joint working groups shall exercise the powers and duties provided for in paragraph 3.41 of the Agreement, including the powers and duties conferred on them by Part IV (C-4) of Schedule C to the Agreement.

“95.29. The recommendations of a joint working group may be unanimous or not. In the latter case, the respective positions of the members of the joint working group shall be sent to the Minister and to the Cree-Québec Forestry Board.

“95.30. The Minister must take into consideration the recommendations of the joint working groups, of their members and of the conciliator appointed pursuant to the provisions of paragraph 17 or 32 of Part IV (C-4) of Schedule C to the Agreement. The Minister must explain his position and inform the joint working groups of the Minister’s reasons for not accepting the recommendations or corrections sought, where that is the case.

“95.31. The Minister shall transmit the information and other elements provided for in paragraphs 3.43 and 3.44 of the Agreement, according to the conditions specified therein, to the members of the joint working groups appointed by the council of a Cree community.

The joint working groups shall make the information they have accessible to the persons referred to in paragraph 3.45 of the Agreement for use in the process of elaboration, consultation and monitoring of forest management plans. If so required, the joint working groups must ensure the confidentiality of the information provided for in paragraph 3.46 of the Agreement in accordance with that paragraph.

“§5. — Penal provisions

“95.32. The holder of a management permit subject to a plan governed by this division, or the third person entrusted with the execution of work authorized by the permit, who contravenes a standard of forest management that is integrated into the plan in accordance with section 95.10, is guilty of an offence and is liable

(1) where the standard of forest management relates to a matter referred to in subparagraph 2 or 7 of the first paragraph of section 171, to a fine of \$10 to \$450 for each tree the holder cut or failed to cut in contravention of the applicable standard;

(2) where the standard of forest management relates to a matter referred to in subparagraph 1 or 8 of the first paragraph of section 171, to a fine of \$5 to \$450 for each tree the holder cut or failed to cut in contravention of the applicable standard or, where the standard of forest management is a standard relating to the salvage of a volume of useful ligneous matter, to a fine of \$40 to

\$200 for each cubic metre of timber the holder fails to salvage, in contravention of the applicable standard ;

(3) where the standard of forest management relates to a matter referred to in subparagraphs 3 to 6 of the first paragraph of section 171, to a fine of \$1,000 to \$40,000 ;

(4) where the standard of forest management relates to a matter referred to in subparagraph 9 of the first paragraph of section 171, to a fine of \$1,000 to \$5,000 for each hectare or part of a hectare affected by the offence or that falls above or below the applicable standard.

“95.33. The fines prescribed in this subdivision shall be doubled in the case of a second or subsequent offence.

“95.34. Where a person is convicted of an offence under paragraph 1 or 2 of section 95.32, the person may not be sentenced to a fine of less than \$200, notwithstanding the fines prescribed in those sections.”

18. Section 102 of the said Act is amended by adding the following paragraph :

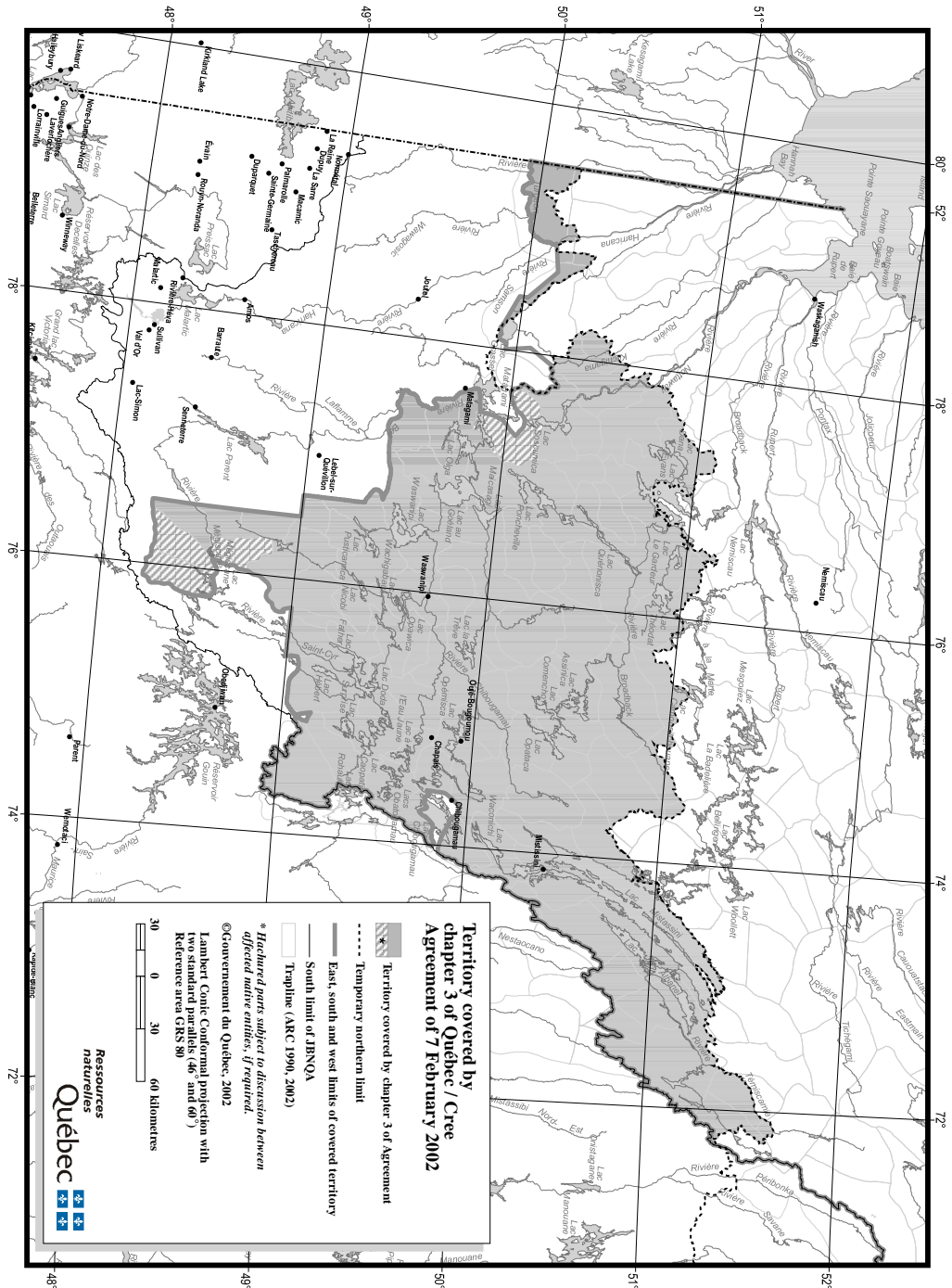
“However, no contract may be entered into as regards the territory referred to in section 95.7.”

19. Section 171.1 of the said Act, enacted by section 118 of chapter 6 of the statutes of 2001, is amended by inserting “, in particular those pursued” after “Native persons” in the third line of the first paragraph.

20. The said Act is amended by adding the following schedule at the end :

“SCHEDULE I

“TERRITORY COVERED BY THE SPECIAL PROVISIONS FOR THE JAMES BAY REGION
(Section 95.7)



ENVIRONMENT QUALITY ACT

21. Schedule B to the Environment Quality Act (R.S.Q., chapter Q-2) is amended by inserting the following at the end of subparagraph *h* of the first paragraph :

“provided that, where they are applicable to the territory referred to in section 133 of this Act, the plans governed by Division IV of Chapter III of Title I of the Forest Act, before being approved or finalized by the Minister of Natural Resources, were the subject of a consultation, in the case of a general plan, with the Cree-Québec Forestry Board as required under the second and third paragraphs of section 95.20 of that Act and, in the case of an annual plan, with the joint working group concerned, as required under paragraphs 37 and 39 of Part IV (C-4) of Schedule C to the Agreement Concerning a New Relationship Between le Gouvernement du Québec and the Crees of Québec ;”.

CHAPTER III

FINAL PROVISIONS

22. The provisions of the Agreement Concerning a New Relationship Between le Gouvernement du Québec and the Crees of Québec referred to in section 95.8 of the Forest Act, enacted by section 17 of this Act, apply in respect of forest management activities carried out after 31 March 2005.

In addition, those provisions shall be applied progressively in respect of forest management activities carried out prior to 1 April 2005, to the extent and under the conditions provided in paragraphs 63 to 78 of Part IV (C-4) of Schedule C to the Agreement. For that purpose, the identification of a site of interest to the Cree is considered to be a situation provided for in the second paragraph of section 50 of the Forest Act, as applicable prior to 1 April 2005.

23. The annual amount paid by le Gouvernement du Québec under chapter 7 of the Agreement is exempt from any form of taxation, fee or levy and is not subject to privilege, hypothec, attachment or seizure.

The annual amount constitutes a capital payment paid to the benefit of the Crees and Cree Bands within the meaning of paragraphs 1.4 and 1.8 of the Agreement, pursuant to the James Bay and Northern Québec Agreement approved by the Act approving the Agreement concerning James Bay and Northern Québec (R.S.Q., chapter C-67), for community and economic development purposes.

24. The Government may make any regulation necessary for the implementation of the Agreement.

25. The provisions of section 21, to the extent that they concern a general forest management plan, do not apply to forest operations forming part of a general plan approved by the Minister of Natural Resources before (*insert*

here the date of coming into force of sections 95.11 to 95.24 of the Forest Act, enacted by section 17 of this Act), except if the plan is amended on or after that date.

26. The Government shall designate the minister responsible for the application of the provisions of this chapter.

27. The provisions of this Act come into force on 13 June 2002, except

(1) sections 1 to 15 and section 17, to the extent that it enacts sections 95.11 to 95.24 of the Forest Act, which come into force on the date or dates to be fixed by the Government ;

(2) the provisions of section 21, which come into force on 1 April 2003 to the extent that they concern an annual management plan, and on *(insert here the date of coming into force of sections 95.11 to 95.24 of the Forest Act, enacted by section 17 of this Act)*, to the extent that they concern a general forest management plan ;

(3) the provisions of section 25, which come into force on *(insert here the date of coming into force of sections 95.11 to 95.24 of the Forest Act, enacted by section 17 of this Act)*.