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INUIT EMPLOYMENT IN THE CONSTRUCTION
INDUSTRY

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1. INTRODUCTION

This Brief is presented jointly by Kativik Regional Government, Kativik School Board and Makivik Corporation.

These organizations are involved, to different degrees, in the multitude of activities concerning the Kativik Region, the territory north of the 55th parallel.

Kativik Regional Government (K.R.G.) super-municipal organization, has major responsibilities in regard to manpower programs, training and employment in the Kativik region. The Kativik School Board (K.S.B.) has the responsibility to provide education services, including vocational training, to the people of the territory. Makivik has a double role as the representative of the Inuit of northern Québec and as an economic agent. Among its economic activities, Makivik has two subsidiary companies involved in construction: Kigiak Builders Inc. and Sanak Maintenance Inc.

Our brief attempts to highlight and address the principal difficulties encountered by Inuit seeking employment in the construction industry.

Our objective is to obtain solutions both in the short and long term that will facilitate the employment, placement and qualification of Inuit in all facets of construction and maintenance in northern Québec and which take into account the natural environment, the type of buildings and the short construction season in the region.

Such solutions should also contribute to the economic development of the region in establishing a construction industry that is appropriate to northern conditions.

To achieve this objective, and taking into account the facts and problems presented in this brief, we believe it is essential that the government pass a moratorium of four years on the applicability to Inuit north of the 55th parallel of the Regulation respecting the placement of Employees in the construction Industry, the Regulation concerning Manpower Vocational Training and Qualification and the Construction Decree. During the moratorium, the authorities responsible for the application of these rules should be given certain discretionary powers in regard to Inuit manpower in construction activity in the territory.

In the interval, the parties concerned should mutually work toward finding long term solutions by proceeding to revise completely the relevant regulations.

In the case of the Regulation respecting the placement of Employees in the Construction Industry, interventions should be made with the following objectives in mind:

- to recognize the Kativik territory as a distinct region for the purposes of the existing construction regulations;
- to simplify the procedure for issuing classification certificates;
- to modify for the north the criteria to renew class A and Apprentice certificates;
- to determine the criteria attached to a certificate issued in virtue of section 36;
- to assure that holders of a special certificate can obtain a regular certificate;

- to amend the regulations concerning the placement of workers;
- modify section 38 in order to protect the priority of employment of native people.

In the case of the Regulation concerning Manpower Vocational Training and Qualification, it is necessary in order to aid and accelerate the qualification of Inuit manpower:

- to modify the criteria allowing for the amendment and suspension of the apprentice cards and booklets with regard to completion of the apprenticeship, the obligation to work during the year, and the renewal of booklets;
- to continue to support and to multiply the interventions regarding the training and qualification of manpower in the region;
- to modify the ratio of apprentices to skilled workers;
- to pursue and intensify the efforts to establish new criteria for evaluating the qualifications in different trades;
- to establish a regime of apprenticeship-qualification appropriate to the northern context and the social-cultural characteristics of the population;
- to define as a particular trade that group of activities required to do general maintenance on buildings.

In regard to the Construction Decree, the moratorium will allow the unions :

- to define the services that they offer to Inuit; and
- to determine the means allowing Inuit to gradually participate in the union movement.

2. HISTORICAL CONTEXT

From a nomadic people utilizing temporary shelters, Inuit are now settled in 14 coastal communities in northern Québec. It was only between 1960 and 1975 that most of the communities were built. In fact, the federal Department of Indian Affairs and Northern Development (DIAND) only initiated an intensive housing program around 1965. In the following decade, housing and other services developed, but not without complication. With the perspective transfer of jurisdiction from Canada to Québec services declined.

However, during this early period, Inuit participated actively in the erection of their communities, particularly their houses. A construction industry, as such, did not really exist in northern Québec. Provincial as well as federal departments carried out the work themselves using the local work force to a large extent. This work force went outside the territory to receive basic training in the principal construction trades, such as heavy machinery operation, carpentry and electrical work.

As Inuit employees acquired a certain amount of experience at various trades, they showed increased interest and took a more active role in the construction of their communities. In fact, during the last years of the federal housing program, a large

part of the work was carried out and supervised by Inuit, with an outside work force acting as resource personnel. The type of prefabricated housing built at that time had become well known to local workers.

With the signing of the James Bay and Northern Québec Agreement and the transfer to Québec of increased responsibilities with respect to housing and other services in Inuit communities, major changes were introduced which affected construction activity in northern Québec. Among them were changes in the type of houses and buildings being constructed, the use of more sophisticated construction techniques coupled with more rigorous standards and supervision, procedures for granting contracts to the lowest bidder, and the increased application of Québec laws and regulations governing the construction industry.

While these new standards resulted in improved housing conditions, the strict application of existing labour and construction laws without adequate consideration of their suitability and regardless of their effects to our northern region, had a tremendously damaging effect on employment of Inuit and consequently, on their socio-economic condition. Nor was there any strong attempt to evaluate the effects of applying such rules and regulations to the intent and spirit of the James Bay and Northern Québec Agreement.

Some efforts, namely greater consultation, are now taking place in respect to Inuit training and qualification in the construction and maintenance trades. Yet, despite these sincere attempts, the procedures involved tend to be piecemeal and uncoordinated. Provisions encouraging the hiring of Inuit construction workers have not been sufficiently linked with the development of adequate training and qualification programs. In short, there is

no comprehensive and cohesive approach to construction activities in northern Québec that take into account the need to create economic opportunities, employment and training for Inuit.

3. THE PRESENT SITUATION AND THE IMPORTANCE OF INUIT PARTICIPATION IN CONSTRUCTION ACTIVITIES

- the territory

The territory of the Kativik region is defined in the Agreement as the territory north of the 55th parallel, covering approximately one third of the total surface of Québec. Thirteen communities are situated in the territory, approximately 100 km apart. Air service is the only means of transport between the communities, the furthest of which is approximately 1,800 km from Montreal.

- the climate

Construction is seasonal and of much shorter duration than in the south of the province. As a result, Inuit accumulate less hours of work thereby extending unduly the apprenticeship period.

- the population

The majority of the population of the territory is made up of Inuit; approximately 4,900 of a total of 5,500. The non-native population is mostly made up of specialized workers, residing temporarily in the north.

- Lifestyle

The culture and lifestyle of Inuit is intermingled with nature and the environment. Inuit, as we know, do not derive their livelihood by exclusively practising one occupation, but rather through a multitude of activity.

- Language

Inuit speak Inuktituut; in general their ability in English and especially in French, remains relative. This causes them certain problems in regard to training (courses, exams, etc...) and the application of standards (regulations, reading plans, etc...).

- Qualified Manpower

A report prepared in 1983 by the minister of Manpower and Income Security¹ cites the following statistics:

..."in 1981, the OCQ counted for the province 53,972 qualified workers and 12,326 apprentices in construction; that is 66,298 workers subject to the regulations (Annex II). Of this number, the figures indicate for the James Bay region 13 qualified workers and 2 apprentices domiciled in this region, without specifying whether these are native people."

1. Deshaies, Yvon, L'apprentissage et la Qualification professionnelle de la main -d'oeuvre autochtone sur les territoires couverts par la Convention de la Baie-James et du Nord québécois, MMSR, 26 mai 1983, 24 pages.

After 20 years of change there are more and more activities and more and more construction projects, yet fewer and fewer economic opportunities for Inuit. The excessive level of unemployment coupled with rising expectations due to closer contact with the south has resulted in great frustration among Inuit.

Employment in construction is one of the primary solutions to this problem: it represents a highly visible and practical complementary economic activity to Inuit traditional activities such as hunting, fishing and trapping. Moreover, a lack of formal education is not a total bar to working in construction.

A relative boom in building activity is scheduled to take place in northern communities during the next five or more years. The vital need for certain services such as housing, schools and airstrips in Inuit communities, has resulted in accelerated programs of construction being initiated. Therefore, construction skills are particularly relevant and in demand. It is crucial that Inuit do not miss this opportunity to improve or develop skills as both contractors and workers. Construction jobs and contracts at the local level can be important elements in improving the economy of northern Québec.

Aside from being the majority population in the region, there are two additional reasons why Inuit have a right to participate on an intensive basis in construction. First, it was through the determined efforts of Makivik, Kativik Regional Government and Kativik School Board that an airstrip improvement program and accelerated programs of construction for both houses and schools are about to take place. Therefore, it would be highly unjust if Inuit companies, cooperatives and workers were not the main beneficiaries of this increased economic activity. Second, the James Bay and Northern Québec Agreement expressly provides not only for Inuit involvement in employment and construction contracts but also Inuit «priority» in these areas.

Moreover, the northern communities require the development of trained local residents who can assume the adequate maintenance of the buildings, residences and equipment in their communities. As well, the cost of maintenance, and of construction, must be decreased in northern Québec which is not going to happen as long as contractors have to rely on an «imported» work force. Finally, the social cost of unemployment is incalculable and all efforts have to be made urgently to create employment opportunities in the construction industry for Inuit.

4. RIGHTS AND OBLIGATIONS IN FAVOUR OF INUIT UNDER THE JAMES BAY AND NORTHERN QUEBEC AGREEMENT

According to Chapter 29 of the Agreement, virtually all aspects of economic activity in the territory north of the 55th parallel are to be further developed. As clearly indicated by section 29.0.1:

«There is established a series of Native Economic Development Programs in favour of Inuit of Québec which shall operate in accordance with the rights, obligations, terms and conditions established by and in accordance with this Section.» (Emphasis added)

Aside from one major exception,¹ no new programs have been created to implement Chapter 29 and no laws have been proposed by the Québec government for enactment by the National Assembly.

The passage of new legislation to give effect to the new programs and to the rights and obligations in favour of Inuit is expressly contemplated in section 29.0.44:

«..... Legislation enacted to give effect to provisions of this Section may be amended from time to time by the National Assembly of Québec in matters of provincial jurisdiction, and by Parliament in matters of federal jurisdiction.»
(Emphasis added)

¹ The Inuit Hunter Support Program was implemented by legislation (Bill 83) passed on December 16, 1982.

The above reference to new laws is reinforced by a general obligation to recommend appropriate legislation forthwith upon the signing of the Agreement. Section 2.5 of the Agreement provides:

«Canada and Québec shall recommend to the Parliament of Canada and to the National Assembly of Québec respectively, forthwith upon the execution of the Agreement, suitable legislation to approve, to give effect to and to declare valid the Agreement and to protect, safeguard and maintain the rights and obligations contained in the Agreement.» (Emphasis added)

In 1976, the National Assembly of Québec adopted An Act approving the Agreement concerning James Bay and Northern Québec¹ which approved, gave effect to and declared valid the Agreement. However, no additional legislation has been enacted to date «to protect, safeguard and maintain» many of the particular rights and obligations contained in Chapter 29.

Among these rights and obligations in section 29 of the Agreement are:

- (1) the right of Inuit to adequate training programs and facilities (sections 29.0.25 and 29.0.27(a));
- (2) the right of Inuit to priority in respect to employment and contracts (sections 29.0.31 and 29.0.32);
- (3) the right of Inuit to a comprehensive review of socio-economic programs applicable to northern Québec (sections 29.0.33 and 29.0.34);

¹ See R.S.Q., c. C-67.

- (4) the right of Inuit entrepreneurs to technical and professional advice and financial assistance (section 29.0.39);
- (5) the obligation on the part of Québec and Canada «to interpret requirements for various categories of jobs so that Inuit people able to perform the work shall be deemed to be eligible» (section 29.0.31(a)(i)); and
- (6) the obligation on the part of government to assist unilingual candidates, who have completed training courses, to be examined either in Inuktitut or with the assistance of a translator or interpreter (section 29.0.26).

Moreover, the basic intention to make the rights and obligations provided for in the Agreement paramount over other federal and provincial laws is expressly stated in the Agreement and the Act approving the Agreement concerning James Bay and Northern Québec.¹

5. SPECIFIC PROBLEMS FOR INUIT TO QUALIFY IN THE CONSTRUCTION INDUSTRY

Despite provisions which give priority to local manpower,² contractors have little interest in training a local work

¹ See sections 2.5 and 2.17 of the Agreement as well as sections 2(2) and 6 of the Act approving the Agreement concerning James Bay and Northern Québec, R.S.Q., c. C-67.

² Both in 1981 and 1982, S.H.Q. contracts provided for a form of hiring of Inuit in priority.

force. As contracts are awarded to the lowest bidder, contractors have discovered that in order to complete the work within their monetary bid, they must rely on a more experienced labour force brought in from outside the territory. This is due to the fact that government contracts make no allowance for the additional costs incurred in providing on-the-job training for local workers.

Moreover, if they wish or are required to hire locally, contractors continue to hire Inuit by «sub-contracting» through the local municipalities because Inuit do not have the necessary classification cards and union documents in order to work legally. However, when they are hired in this way, the hours worked by Inuit do not necessarily count toward qualification.

This question of having the necessary classification cards and union documents is a particular problem to Sanak Maintenance Inc. When Sanak took over the maintenance work for the Ministère des Travaux Publics et de l'Approvisionnement (M.T.P.A.), as a self-imposed policy, it undertook to retain all native personnel formerly working for M.T.P.A. in northern Québec. As long as M.T.P.A. did its own maintenance work, neither it nor its employees were subject to the construction rules and regulations. Now that work is being done by a third party, the contractor should adhere to these rules and regulations. However the native personnel do not have the required cards and documents, though they are clearly able to competently carry out their functions.

Vocational facilities were established at Lac Hélène¹ as an initial attempt to train Inuit for the construction industry so

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It should be noted that we do not feel Lac Hélène is an adequate response to the commitments of section 29.0.25 of the Agreement to provide a full range of training courses. In addition, we believe that such training centres should be established in our territory.

that they would qualify. However, this form of theoretical training has not been sufficiently linked with on-the-job experience. Moreover, the difficulties encountered in obtaining the necessary work certificates, even for those who have received training, has resulted in much discouragement.

The principal difficulty for Inuit in obtaining employment in the construction industry is the wholesale application of construction and labour laws in our northern territory. The natural and social environment, the type of buildings and the short construction season, have not been adequately taken into account in applying the said regulations.

6. QUEBEC LAWS AND REGULATIONS AFFECTING INUIT EMPLOYMENT IN THE CONSTRUCTION INDUSTRY

The laws affecting employment in the construction industry are:

- (1) An Act respecting Labor Relations in the Construction Industry, R.S.Q., c. R-20;
- (2) Regulation respecting the placement of Employees in the Construction Industry, R-20, r. 10;
- (3) Construction Decree, R-20, r. 5;
- (4) An Act respecting Manpower Vocational Training and Qualification, R.S.Q., c. F-5; and
- (5) Regulations concerning Manpower Vocational Training and Qualification in the Construction Industry, F-5, r. 3.

6.1 Conditions of Employment of Workers in the Construction Industry

According to the Act respecting Labour Relations in the Construction Industry, hereinafter the «Act», the conditions of employment of construction employees are governed by decree or, failing a decree by collective agreement or ordinance.¹ Any collective agreement made under the Act determines the conditions of employment applicable to all the trades and employments in the construction industry. An Agreement not made in accordance with the Act is void.²

6.2 Compulsory Union Membership for Construction Employees

Construction employees holding a classification certificate from the Office de la Construction du Québec (OCQ) are required to affiliate themselves with one of five unions specified in the Act.³ A card is then issued by the OCQ to each employee indicating the name of his or her representative union or employee association. Employers may only hire employees who hold a union membership card. Every employee must, in order to remain employed, be a member in good standing of the union joined.⁴ In addition, employers must deduct union dues from employees' pay and must remit these to the OCQ who in turn remits them to the union.⁵

1 Section 27 of the Act.

2 Section 46 of the Act.

3 See generally sections 28-39 of the Act.

4 See section 7.03 of the Construction Decree.

5 See section 38 of the Act and sections 8.01 - 8.03 of the Construction Decree.

We believe it is premature to have compulsory unionization in our northern territory. In principle we have no major reason to object to such an obligation. However, in order to make it meaningful to the workers of the region it is necessary that they be sensitized to union activities and made aware of the services the union can offer them. Moreover, it is important that the full implications of such a system be assessed by Inuit workers prior to implementation. Unionization can have particular ramifications in the north and may be further complicated by language and cultural differences.

In addition, many Inuit construction workers have interests both as employees and as employers. While they may be engaged in construction work on an individual basis, such Inuit are also members of Inuit cooperatives and corporations, who may be their employers, such as the Fédération des Coopératives du Nouveau Québec and Makivik which owns Kigiak and Sanak. Therefore, the existing system of collective bargaining between unions and employers associations may not be appropriate to our context.

6.3 Requirement for Certificates of Classification

In order to work in the construction industry, a person must have a certificate of classification.¹ There are three types of certificates of classification: «A», «Apprentice» and «Special».

1 See Regulation concerning Placement of Employees in the Construction Industry, R-20, r. 10, section 2.

In order to receive an «A» certificate from the OCQ, an employee must have worked at least 1,000 hours in a skilled trade during the course of the previous two years. Although there exist many exceptions to this general rule, no Inuit presently meet the criteria to obtain such a certificate.

An employer may request the OCQ to issue an «Apprentice» certificate if the employer provides a guarantee of employment in the region where the person resides. However, it must first be shown that no employee holding an «Apprentice» certificate is available in the region, nor a person who holds a «Special» classification certificate having worked at least 1,000 hours in the past two years.¹

Since the choice of contractors in the north is not known until June of each year, the requirement of a guarantee of employment from the employer will likely mean that the construction season will begin before the applicant can obtain an «Apprentice» certificate. Moreover, «region» is so defined that Inuit communities constitute a small part of much larger regions. Kuujjuarapik and eventually Umiujaq (Richmond Gulf) are part of sub-region James Bay of the James Bay region. All other Inuit communities are part of sub-region Mingan of the Côte Nord region. Since both regions include a great number of persons who already hold «Apprentice» certificates, there is little opportunity for Inuit to obtain one through a special request by the employer to the OCQ.

In «remote» areas, a «Special» classification certificate may be obtained by an employer from the OCQ for any person residing in such area if a guarantee of employment is provided.² Such a certification will only be issued if no employees are available in the isolated area who hold an «A» or «Apprentice» certificate. Moreover, the duration of a «Special» certificate is determined by the OCQ who may also impose restrictions concerning the work, the site and the employer.³ Once again, the requirement of a guarantee

1 See section 22 of the Regulation.
2 See section 16 of the Regulation.
3 See section 17 of the Regulation.

of employment and other rules or conditions make it difficult for Inuit to obtain «Special» certificates.

6.4 Priority of Hiring and Placement

In the Regulation concerning Placement of Employees in the Construction Industry, certain rules are provided for establishing priority of employment.¹

Generally, for work conducted in a «remote job site», priority is given to an employee who holds an «A» or «Apprentice» certificate and who resides in the «region» where the work is being done. If no such person is available, priority is given to an employee from outside the region who holds a similar classification certificate or else to a person domiciled in the region holding a «Special» certificate having worked at least 1,000 hours in the last two years. In addition, the Regulation provides that an employer may assign an employee who holds an «A» or «Apprentice» certificate anywhere in Québec if such employee has worked a certain number of hours for the employer during the previous two years preceding the renewal of his or her certificate.²

In regard to native peoples, the Regulation provides in section 36 as follows:

«Notwithstanding section 35, for work conducted at James Bay and north of this region, priority is first granted to the native peoples of James Bay and of the communities located north of this region. The same priority is granted everywhere else to native peoples for work carried out in their reserve or establishment. To this end, a «Special» classification certificate may be issued to native peoples.»
(Emphasis added)

While we actively support the objective of the above clause, we have serious concerns about its effective application

1 See sections 35-39 of the Regulation.

2 See section 38 of the Regulation.

and enforcement. To date, Inuit have derived little or no benefit from section 36.

It should also be made clear that the classification certificates issued by the OCQ under section 36 do not require going through an employer or obtaining a guarantee of employment (as required by section 16 of the Regulation). Moreover, an employer should not be able to assign an employee holding an «A» or «Apprentice» classification certificate to work in our territory unless no beneficiaries (referred to in section 36) are available who hold the same certificate.

6.5 Determining Available Workers for Hiring and Placement

Under the present laws and regulations, the OCQ is responsible for the placement of construction workers¹ and may act for such purposes as an employment agency.² However, an employer may directly hire employees without going through an employment agency.³

The OCQ keeps an up-to-date list of employees who hold classification certificates and who are available to do construction work.⁴ A person's name will be deleted from the availability list by the OCQ if the person cannot be contacted by a

1 See an Act Respecting Labour Relations in the Construction Industry, R.S.Q., c. R-20, section 78.

2 See the Regulation respecting Placement of Employees in the Construction Industry, section 52.

3 See section 45 of the Regulation.

4 See section 48 of the Regulation.

representative of the OCQ after two phone calls are made within a period of 4 to 24 hours.¹ In Inuit communities, many people may not be reached since they do not have telephones and are often outdoors. Therefore, under the above system, Inuit workers who succeed in having their names placed on the OCQ availability list will most likely soon be taken off. Moreover, difficulties related to language differences and distance make the present contact system inappropriate for the North.

An attempt to simplify the procedure has been taken by the OCQ. Instead of having to work from the OCQ's list of available workers, contractors may hire locally and then notify the regional Québec Manpower office by telephone. Québec Manpower can then advise the OCQ by telephone. However, problems have arisen in not being able to obtain all documents that are required (classification card, apprenticeship booklet, union card) in order to process such persons hired. Moreover, it does not ensure that employers will, in fact, hire locally.

6.6 Certificates of Qualification, Attestations of Experience and Apprenticeship Cards

Under the Manpower Vocational Training and Qualification Act, no employer may employ an employee who does not possess a «certificate of qualification» and no skilled worker may carry on a trade or vocation without such certificate.² In addition, the Regulation respecting Vocational Training and Qualification of Manpower in the Construction Industry provides that a person plying a trade must have either a qualification certificate or an attestation of experience, or else obtain an apprenticeship card.³

1 See section 53 of the Regulation.

2 See section 42 of the Act.

3 See section 4 of the Regulation.

A «qualification certificate» is a certificate issued by the Department of Labour and Manpower attesting to the level of qualification acquired by the holder in a trade.¹ In cases where a person does not meet the requirements for a qualification certificate, an attestation of experience might be obtained under special circumstances.

An «attestation of experience» is a document issued by exception by the Department proving that the holder has plied a trade in whole or in part.² If a person cannot meet the criteria for an attestation of experience, an apprenticeship card will be necessary in order to work. «Apprenticeship cards» are identity cards issued by the Department for those persons who are registered as apprentices under the Regulation.

To date, under these existing rules, many Inuit have had great difficulty in obtaining these documents.

6.7 Conditions of Eligibility for Apprenticeship

In order to be admitted to apprenticeship, a candidate must be at least 16 years of age and hold an «Apprentice» certificate issued under the Regulation respecting the Placement of Employees in the Construction Industry. This certificate is not only necessary to work in the construction industry but also to be admitted to formal training courses such as are given at Lac Hélène. The problems related to obtaining classification certificates have already been discussed above.

1 See section 1(d) of the Regulation.

2 See section 1(a) of the Regulation. The attestations of experience are issued by the Council of Arbitration created under the Act (See section 14 of the Regulation and section 41 of the Act).

6.8 Difficulties with the Existing Apprenticeship System

If a person does not have a qualification certificate or an attestation of experience, apprenticeship is obligatory in each trade.¹ Moreover, a person can only be an apprentice in one trade at a time.

Schedule B² of the Regulation concerning Manpower Vocational Training and Qualification in the Construction Industry specifies the number of periods of 2,000 hours each which are required in the term of apprenticeship in each given trade. Before accepting employment, candidates are required to register as an apprentice and obtain an apprenticeship card and booklet from the Department of Labour and Manpower. They are classified according to their experience and apprenticeship credits obtained.³ These credits are allotted for recognized vocational training courses taken by a candidate in a given trade.

After completing the number of periods provided for in Schedule B for a particular trade, the apprentice must sit for the qualification examination no later than one month following the termination of apprenticeship.⁴

It is compulsory for the «beginning apprentice» to work for an employer registered with the OCQ within two months following the issuance of the apprenticeship booklet and card. Otherwise these documents will be suspended for all legal purposes.⁵ Moreover, it is compulsory for any apprentice to work in his or her

1 See section 15(1) of the Regulation.

2 Schedule B is reproduced in an Annex hereto.

3 See section 15(4) of the Regulation.

4 See section 16(4) of the Regulation.

5 See section 16(6) of the Regulation.

trade for at least a part of each year so that the name appears on the employer's monthly report to the OCQ during any consecutive 12-month period. Otherwise, the apprenticeship booklet and card will be cancelled.¹

The main problems encountered by Inuit with the above apprenticeship system may be summarized as follows. First, the number of apprenticeship periods (2,000 hours each) required to sit for the qualification examination may mean an overly long apprenticeship term in the northern context. The short construction season in the north allows Inuit to work approximately 400 hours per year. If three periods, of 2000 hours each are required for a carpenter-joiner, then one could spend 15 years in apprenticeship.

Officials of the Ministry of Labour and Manpower have indicated that at least 800 hours of each 2000 hour period must be devoted to field work. Up to 1200 hours of credits could in theory be obtained between construction seasons by taking training courses. If Inuit candidates pass the examinations, this would allow them to obtain their carpenter-joiner qualification certificate within approximately 6 or 7 years. We believe that ways should be examined to shorten the apprenticeship period.

In regard to the qualification process, our main concerns relate to the type of examination that Inuit candidates must take and the definition of trades. We believe that it is important to redefine or recategorize certain trades to take into account the special needs of the north, especially as this relates to the maintenance of buildings.

Most Inuit candidates to date have not had the benefit of an extensive formal education. Therefore, we would recommend that

1 See section 16(4) of the Regulation.

examinations be designed to take into account this factor and that the orientation of the exams be more practical than theoretical. In addition, the exam should emphasize the types of problems that exist in our northern territory rather than those which are relevant for the most part in the south. In the long term, as the level of formal education in the north increases, we would expect that Inuit candidates be gradually submitted to the same exams as other candidates so that Inuit workers may become more mobile in plying their trade.

In regard to «beginning apprentices» working within our northern territory, it is not feasible to require them to work for an employer within two months following registration in a vocational training course. This is due to the fact that there is generally no construction activity for seven months of the year (end of November until July).

In addition, we feel it is too rigid a requirement in the north for Inuit to have to work at least part of each consecutive twelve-month period at his or her trade in order to retain the apprenticeship booklet and card. To date, residential construction constitutes 85 to 90 per cent of all construction taking place in Inuit communities. However, such construction may occur in any given community only once every two years. Therefore, a longer period should be contemplated before cancelling apprenticeship booklets and cards in our territory.

6.9 The Existing System of Ratios of Apprentices to Skilled Workers

Under Schedule B of the Regulation concerning Manpower Vocational Training and Qualification in the Construction Industry, an employer may not hire more than 1 or 2 apprentices for every 5 or 6 skilled workers.¹ For example one apprentice for every 5

¹ See section 19(4) and Schedule B of the Regulation (see Annex to this Appendix).

skilled workers is allowed in the case of carpenter- joiners. In the case of electricians, the ratio is 1 apprentice to 2 skilled workers. For pipe-fitters (plumbers) the ratio is 1 apprentice for every 2 skilled workers. These ratios are much to low in the context of our northern territory.

In light of the need for a qualified local work force in the region north of the 55th parallel, we would propose that all apprentices following training courses under an apprenticeship program be permitted to be hired during the construction period in our region. Such a modification is required at least until a sufficient number of Inuit have obtained their qualification certificates or have reached the last periods of apprenticeship.

This would also eliminate the problem caused by the requirement of the employer to ensure that at least 25% of all apprentices hired are among those who are in their last or second-to-last period of apprenticeship, since Inuit apprentices will not be in their last (or second-to-last) period before perhaps 3 or 4 years.¹

6.10 Definition of Trades

The definition of trade poses a problem both in regard to the qualification of workers as well as the proper functioning for contractors.

The evaluation of qualifications for skilled workers as well as the apprenticeship regime bears on all aspects of a particular trade. This situation creates certain handicaps to northern workers, who in most cases do not have the opportunity to acquire experience in all facets of their respective trade as construction activity in the north is limited to certain types of construction. For example, very few buildings have foundations, a

¹ See section 19(7) of the Regulation.

carpenter-joiner will not have the opportunity to familiarize himself with framing work.

The labor market in construction required the specializations of workers. At present there are 23 trades for 29 specializations with another 14 trades outside construction. Construction activity and the maintenance of buildings in the north do not require as many specializations, and often a worker should possess several skills when he works on a northern construction site.

This issue takes on a particular importance for a northern enterprise such as Sanak Maintenance Inc. In effect this company cannot ask its non-qualified workers to execute maintenance work related to trades such as carpentry, electricity, plumbing, etc. Ideally, Sanak should have for each community qualified workers representing each of the principal trades. This is impossible when one considers that in the best of cases, for a community such as Inukjuak (population: 700), Sanak has only 2 employees to accomplish all maintenance work.

6.11 Recommended Measures

In regard to the laws and regulations affecting Inuit, the following measures would be appropriate:

1. Inuit should be exempt from the obligation to belong to a workers association or union until the moratorium has permitted the time to the unions to define the services that they can offer Inuit and to determine the system that will permit Inuit to gradually gain access to union activity.

2. The territory north of the 55th parallel should be constituted as a distinct region. The services offered by the OCQ can be dispensed from Montreal, but it is fundamental that the evaluation of manpower, the placement of workers and the hiring is done on a regional basis which corresponds to the geographic and social reality of the north.
3. The administrative agreement between the MMSQ and the OCQ concerning the issuance of new classification certificates should continue to apply, but if necessary, such administrative procedure should be recognized in the regulations.
4. The rules relating to obtaining or renewing a certificate for Inuit workers should be modified by reducing the number of hours required or prolonging the period in which such hours may be accumulated.
5. A mechanism should be established that would allow Inuit who are holders of a «Special» certificate in virtue of section 36 of the Regulation respecting the placement of employees in the Construction Industry to obtain class «A» or «Apprentice» certificates.
6. It should be clarified that section 38 of the Regulation respecting the placement of employees in the Construction Industry does not override the priority of employment provided to native peoples by section 36 of the same regulation.

7. The rules relating to the control of apprentice booklets as provided for in section 16(4 to 6) and 27 of the Regulation concerning Manpower Vocational Training and Qualification should be modified for Inuit to take into account the northern context.
8. The ratio of apprentice to qualified workers prescribed by section 19 (4 to 7) and annex B of the Regulation concerning Manpower Vocational Training and Qualification should be modified for the Kativik territory.
9. The training courses and exams administered to Inuit should take into account the northern context and the need for multi-skilled native workers.
10. A separate trade should be created in regard to maintenance work in the Kativik territory.

7. PROCESS UNDERTAKEN

During the Economic Summit on the development of Cooperatives held in 1980, the Fédération des Coopératives du Nouveau-Québec made representations to the Minister of Manpower, Mr. Pierre Marc Johnson, concerning the prejudice to be suffered by the workers and contractors of northern Québec if the regulations concerning the construction industry were applied in the north. At that time the Minister refused to contemplate suspending the application of the regulations to the north, but was prepared to examine the possibility of making amendments that took into account the particular context. However, no concrete action followed.

The next year, as important construction projects commenced in the north by the government, different complaints were expressed by the workers in the northern communities. Aware of the many problems encountered by Inuit wishing to work on a northern

construction site, the different regional organizations, such as the KRG, the FCNQ, and Makivik entered into a never-ending series of meetings with government officials in order to come up with solutions to the problems encountered by Inuit workers and contractors.

In January 1983, following requests made to the Minister of Manpower, Madame Pauline Marois, a working group was established to study the problem and to find solutions. After many meetings with the bureaucrats involved, it was concluded that the bureaucrats were not able to correct the situation, but rather that it would take amendments to the laws and regulations.

In February 1984, we requested to Madame Pauline Marois, Minister of Manpower and Income Security, to impose a moratorium on the application of the construction regulations in the north for the reasons elaborated upon in this brief. This request resulted in several more meetings with the bureaucrats. They acknowledged that the regulations regarding the construction industry were inappropriate in the northern context, but concluded, once again, that it was a political problem. Moreover, they indicated that any initiative taken to modify the law in such a way risked contravening the Québec Charter of Human Rights and Freedom.

Section 29.0.31 of the Agreement obliges the government to grant priority of employment to native people. However, this obligation to grant priority loses all meaning if the regulations applicable to manpower in the construction industry are not modified. The affirmative measures foreseen in chapter 29 of the Agreement, in particular those granting priority of employment for native workers, can themselves be interpreted by certain people as contravening the Québec Charter of Human Rights and Freedoms.

We have always maintained that the Agreement prevails over the Charter. However, as Makivik suggested before the Parliamentary commission of last November¹, it would be appropriate to clarify, through additional legislative enactment, that Québec's Charter should not be interpreted in a manner which would diminish or otherwise detract from the rights and obligations under the Agreement. In this regard we would recommend the following amendment to the Act approving the Agreement concerning James Bay and Northern Québec:

"7. The rights and freedoms in the Charter of Human Rights and Freedoms (R.S.Q., chapter C-12) shall not be construed as as to abrogate or derogate from any aboriginal, treaty or other rights or freedoms that pertain to the beneficiaries of the Agreement, including the rights, undertakings and obligations in favour of the beneficiaries which have been acquired or confirmed in the Agreement.
No provision of any act, even subsequent to this Act, may derogate from the sections of this Act, unless such act expressly states that the consent of the party referred to under section 1.11 of the Agreement has been obtained."

1 Mémoire à la Commission de la présidence du Conseil et de la Constitution chargée d'examiner les droits et les besoins des peuples autochtones du Québec: Le besoin de réévaluer et d'améliorer les relations Québec-Inuit. Montréal, November 1983.

8. RECOMMENDATIONS AND GENERAL CONCLUSIONS:

With this brief we have once again attempted to underline the many problems encountered by Inuit workers who wish to participate in the construction industry. The development of regulations concerning the construction industry in the province was done progressively. However, this was not the case in the north where the rules were applied suddenly without taking into account the northern context. The rules should be adopted to this reality and should be applied step by step in order to ultimately have a uniform provincial application.

For two years the regional organizations in conjunction with representatives of MMSR and OCQ have attempted to correct the problems that face workers in the territory in order to allow them to work on northern construction sites. A lot of effort has been made to establish programs of professional and on-site training in order to qualify the workers. These different initiatives have often been slowed down if not stopped by the obstacles imposed by the construction regulations.

Until appropriate changes are made to the existing laws and regulations governing the construction industry, we believe that they should not apply to Inuit in northern Québec. To such end, we strongly recommend that a moratorium be imposed so that during the period of the next three years, the construction decree, the placement regulations and qualification regulations would not apply to Inuit.

In this way, contractors will be able to hire Inuit who do not necessarily have all the required certificates nor who are members of unions.

However, such a moratorium should not prejudice Inuit apprentices and all of their hours of work should be registered and counted toward qualification in their particular trade.

Given the paramountcy of the James Bay and Northern Québec Agreement, and the fact that the Construction Decree can be unilaterally amended by the government,¹ we maintain that such a moratorium period can be enacted by the government, and that such a solution is the only one which can remedy the existing situation in the short-run.

This short-term solution would allow the required time necessary to examine all applicable laws and regulations concerning the construction industry and to make necessary changes so that such laws and regulations conform to the spirit and intent of the James Bay and Northern Québec Agreement. Moreover, the moratorium would give the parties concerned the time to elaborate upon the kind of measures we recommend in section 6.11 of the present brief and to put them into effect.

In order to avoid any time consuming and costly legal challenges by third parties in the future we recommend that it be clarified, through additional legislative enactment that the Québec Charter of Human Rights and Freedoms does not diminish or otherwise detract from the rights and obligations provided under the James Bay and Northern Québec Agreement.

ANNEX

Schedule B - Regulation respecting the
Vocational Training and Qualification of
Manpower in the Construction Industry
(R.S.Q., c.F-5, r.3)

Groups	Trade	<u>Appren- ticeship period(s)</u>	<u>Ratio of apprentice(s) per qualified worker(s)</u>	
			Appren- tice(s)	Qualified worker(s)
I	1. Carpenter-joiner..	3	1	5
	2. Interior systems installor.....	3	1	5
II	3. Crane operator....	1	1	1
	4. Shovel operator...	1	1	1
	5. Heavy equipment operator.....	1	1	2
	6. Heavy equipment mechanic.....	3	1	1
III	7. Structural steel erector.....	2	1	5
	8. Boilermaker.....	3	1	5
	9. Ornamental iron worker	2	1	5
	10. Reinforcing steel erector.....	1	1	5
IV	11. Tinsmith.....	3	1	2
	12. Roofer.....	1	1	4
V	13. Painter.....	3	1	5
	14. Resilient flooring layer.....	1	1	2
	15. Insulator.....	3	1	5
	16. Plasterer.....	3	1	5
VI	17. Cement finisher...	2	1	5
	18. Bricklayer-mason..	3	1	5
	19. Tile setter.....	3	1	5
	20. Millwright.....	3	1	5
VII	21. Electrician.....	4	1	2
VIII	22. Pipe fitter.....	4	1	2
IX°	23. Elevator mechanic.	5	1	1
X				

°The proportion applying
to the fire protection
mechanic is:

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