

**AGREEMENT**  
**RESPECTING THE IMPLEMENTATION OF THE**  
**JAMES BAY AND NORTHERN QUEBEC AGREEMENT**  
**BETWEEN HER MAJESTY THE QUEEN IN RIGHT OF CANADA**  
**AND MAKIVIK CORPORATION**

**AGREEMENT RESPECTING THE IMPLEMENTATION OF THE  
JAMES BAY AND NORTHERN QUEBEC AGREEMENT**

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**AGREEMENT RESPECTING THE IMPLEMENTATION OF THE  
JAMES BAY AND NORTHERN QUEBEC AGREEMENT**

AGREEMENT respecting the Implementation of the James Bay and Northern Quebec Agreement, dated the 12<sup>th</sup> day of September 1990.

**BY AND BETWEEN:** Her Majesty the Queen in Right of Canada, hereinacting through and represented by its undersigned authorized representative, the Minister of Indian Affairs and Northern Development (the "Minister")

PARTY OF THE FIRST PART

**AND:** Makivik Corporation, a corporation duly incorporated by statute of the Province of Quebec, hereinacting for and on behalf of the Inuit of Quebec and on its own behalf, and represented by its undersigned authorized representatives

PARTY OF THE SECOND PART

**WITNESS:**

- A. WHEREAS the Negotiator for the Inuit of Quebec and the Negotiator for the Government of Canada reached an agreement-in-principle on September 15, 1989 ("Agreement-in-Principle");
- B. WHEREAS on July 27, 1990 the Government of Canada by Order in Council approved the present Agreement Respecting the Implementation of the James Bay and Northern Quebec Agreement ("Agreement") and on May 4, 1990 Makivik Corporation approved this Agreement on behalf of the Inuit of Quebec; and
- C. WHEREAS this Agreement is the final agreement contemplated by paragraph G of the Preamble of the Agreement-in-Principle.

**NOW, THEREFORE, IN CONSIDERATION OF THE MUTUAL COVENANTS, AGREEMENTS AND UNDERTAKINGS HEREINAFTER SET FORTH, IT IS HEREBY AGREED AS FOLLOWS:**

1. Definitions

In this Agreement, unless the context requires otherwise, the following words and expressions shall have the following meanings:

- 1.1. "Canada": Her Majesty the Queen in Right of Canada or the Government of Canada;

- 1.2. "Inuit" or "Inuit of Quebec":  
The Inuit beneficiaries as defined under Section 3 of the James Bay and Northern Quebec Agreement;
- 1.3. "Quebec": The Government of Quebec;
- 1.4. "JBNQA": The James Bay and Northern Quebec Agreement entered into on November 11, 1975, as amended from time to time in accordance with paragraph 2.15 thereof;
- 1.5. "JBIO": The JBNQA Implementation Negotiations Office established pursuant to Cabinet decisions, dated June 26, 1986 and March 24, 1988, for purposes of the JBNQA Implementation Negotiations, until the Office contemplated by paragraph 4.2 below becomes operational and, thereafter, the said Office;
- 1.6. "Federal Negotiator":  
The person appointed by the Government of Canada on October 1, 1986 to represent Canada for purposes of the JBNQA Implementation Negotiations;
- 1.7. "Makivik":  
Makivik Corporation, the corporation established by the Act to establish the Makivik Corporation (R.S.Q., ch. S-18.1), and constituted as the Inuit Native Party for purposes of the JBNQA pursuant to paragraph 1.11 thereof;
- 1.8. "Inuit Negotiator":  
The person appointed by Makivik on March 8, 1988 to represent the Inuit of Quebec for purposes of the JBNQA Implementation Negotiations, or his successor;
- 1.9. "ISTC": Department of Industry, Science and Technology;
- 1.10. "DIAND": Department of Indian Affairs and Northern Development;
- 1.11. "KIF": Kativik Investment Fund Inc., a corporation duly incorporated pursuant to the laws of Canada;
- 1.12. "KRDC": Kativik Regional Development Council, established pursuant to subsection 23.6 of the JBNQA;
- 1.13. "KRG": Kativik Regional Government, established pursuant to Section 13 of the JBNQA;
- 1.14. "CPI": The Consumer Price Index for all of Canada as published by Statistics Canada in the Consumer Price Index catalogue, No. 62-001.

## 2. JBNQA and Legal Status of Agreements

- 2.1. It is the express intent of the Parties to this Agreement that ~~nothing herein be considered an amendment to, modification of, or derogation from the JBNQA and, without limiting the generality of the foregoing, that nothing herein affects the application of paragraphs 2.11 and 2.12 of the JBNQA.~~ The Parties to this Agreement expressly agree that nothing herein constitutes a supplementary amending agreement within the meaning of Section 4 of the James Bay Native Claims Settlement Act (S.C. 1976-1977, c.32) and of paragraph 2.15 of the JBNQA. The Parties hereto further agree that this Agreement constitutes a contract between the Parties for the implementation of certain provisions of the JBNQA.
- 2.2. The ancillary or related agreements contemplated by this Agreement shall not constitute an amendment to, modification of, or derogation from the JBNQA and, without limiting the generality of the foregoing, shall not affect the application of paragraphs 2.11 and 2.12 of the JBNQA. The related or ancillary agreements contemplated hereby shall not take the form of a supplementary amending agreement within the meaning of Section 4 of the James Bay Native Claims Settlement Act and paragraph 2.15 of the JBNQA.
- 2.3. Notwithstanding paragraph 2.1 above, the Dispute Resolution Mechanism established by paragraph 6.1 and Annex H hereof shall also take the form of a supplementary amending agreement to the JBNQA, subject to the Parties hereto obtaining such other consents as may be required from other parties to the JBNQA.

## 3. Coming Into Force

This Agreement is executed and in full force and effect as of the date first above written and the ancillary or related agreements contemplated hereby shall come into full force and effect immediately upon their execution.

## 4. Ongoing Federal Organization and Structure

- 4.1. Canada hereby establishes an organization and structure that, inter alia, shall:
- a) facilitate communications and act as a channel of communication between the Inuit of Quebec and Federal

departments, agencies and Crown corporations involved in the implementation of the JBNQA;

- b) consult with and advise the appropriate Federal departments and agencies with respect to federal responsibilities under the JBNQA in order to facilitate timely and effective implementation of the JBNQA;
- c) monitor the ongoing implementation of Canada's obligations under the JBNQA, but will have no direct responsibility for the funding or budgets of the Federal departments and agencies delivering programs and services to the Inuit of Quebec;
- d) facilitate the implementation of the JBNQA Implementation Forum contemplated in Section 5 below; and
- e) become operational not later than 120 days after the Order in Council approving this Agreement.

4.2. The organization and structure referred to in paragraph 4.1 above shall be the responsibility of the Minister responsible for the JBNQA and shall be comprised of:

- a) An interdepartmental Assistant Deputy Minister level committee comprised of representatives of all the departments involved from time to time in the implementation of the JBNQA, the chairperson of which shall be an Assistant Deputy Minister from the department of the Minister responsible for the JBNQA; and
- b) An Office headed by a full time senior manager reporting to the chairperson of the interdepartmental committee.

4.3. The Assistant Deputy Minister and the Office shall have sufficient resources to ensure that the functions listed in paragraph 4.1 and any others related thereto that may be assigned from time to time are carried out.

4.4. No earlier than 36 months and no later than 48 months following the execution of this Agreement and thereafter, at such intervals as may be mutually agreed, the Minister responsible for the JBNQA and Makivik shall review the operation and effectiveness of the ongoing federal organization and structure set out herein with a view to making such amendments or modifications thereto, in accordance with Section 16 hereof, as may be appropriate in the circumstances.

5. JBNQA Implementation Forum

- 5.1 Canada and the Inuit of Quebec hereby establish a JBNQA Implementation Forum which shall also foresee the participation of Quebec. The Forum shall consist of appropriate senior representatives of Canada, the Inuit of Quebec appointed by Makivik and, if it agrees to participate, Quebec. Canada's representative(s) shall include, ex officio, the chairperson of the interdepartmental committee referred to in paragraph 4.2.
- 5.2. The Forum shall hold regular, quarterly meetings unless otherwise agreed by the representatives of the parties to the Forum, to review progress and to discuss and coordinate action on any issue related to ongoing implementation of the JBNQA. The representatives of a party to the Forum may convoke special meetings of the Forum to deal with urgent matters.
- 5.3. The Forum shall become operational not later than 120 days after the Order in Council approving this Agreement and the representatives of the parties to the Forum shall establish from time to time such other procedures as may be additionally required.

6. Dispute Resolution Mechanism

- 6.1. The Dispute Resolution Mechanism set out in Annex H (Dispute Resolution Mechanism) hereto is hereby established.
- 6.2. The Dispute Resolution Mechanism shall come into force and govern the Parties hereto in accordance with its terms as of the date of the execution of this Agreement whether or not the supplementary amending agreement contemplated by paragraph 2.3 above has been executed and has come into force. The Dispute Resolution Mechanism shall not apply to Quebec unless and until the date Quebec agrees to be bound by same.

7. Working Groups

- 7.1. The Working Groups referred to in Annexes B (Inuit Eligibility for and Access to Federal Programs and Funding), C (Justice/Solicitor General) and E (Marine Transportation) are hereby continued and shall make the recommendations and reports and draft the agreements, memoranda of understanding or policies, as the case may be, as provided for therein to implement the provisions of the specific "agreements-in-principle" set out in Section 2 of each of said Annexes.

- 7.2. The Working Groups shall be composed of appropriate representatives of the Inuit organizations, federal departments and agencies and, where applicable, provincial ministries and agencies, specified in the Annexes hereto. The said representatives shall be duly authorized to represent the parties to the Working Groups and instructed to carry out the mandate of their respective Working Group for the implementation of the specific "agreements-in-principle" set out in Section 2 of each of said Annexes.
- 7.3. The Working Groups shall carry out their respective mandates and submit their respective recommendations and reports and draft agreements, memoranda of understanding or policies, as the case may be, to the JBIO and the Inuit Negotiator for their respective approval, the whole in accordance with the provisions of the respective Annexes.
- The Justice/Solicitor General Working Group(s) shall also submit its (their) recommendations to the federal department(s) concerned.
- 7.4. If the parties to the Working Groups cannot reach unanimous agreement on the recommendations, reports, draft agreements, memoranda of understanding or draft policies, they shall report this dispute to the JBIO and the Inuit Negotiator, together with their respective positions. The JBIO and the Inuit Negotiator shall attempt to resolve such disputes.
- 7.5. Any such disputes unresolved between the JBIO and the Inuit Negotiator shall be submitted to the Dispute Resolution Mechanism process as provided for under Annex H.

8. Payment

- 8.1. Canada hereby agrees to make a one-time payment equal to the amount obtained by multiplying Twenty-Two Million Thirty Thousand Two Hundred and Eighty Dollars (\$22,030,280), by the quotient obtained by dividing the most recently published CPI (June 1990) available on the date of the Order in Council approving this Agreement, which is 157.8, by the CPI as determined for September 1989, which is 152.6, to Makivik for the benefit of the Inuit of Quebec as soon as possible after the execution of this Agreement and, in any event, within ninety (90) days after the date of the Order in Council approving this Agreement.
- 8.2. In the event the amount payable pursuant to paragraph 8.1 is not paid in accordance with paragraph 8.1, interest shall be paid on the unpaid portion of the amount at a rate per annum calculated at one and one-half percent (1 1/2%) plus the average accepted tender rate of Government of Canada three (3) month Treasury bills, as



announced each week by the Bank of Canada on behalf of the Minister of Finance, which rate shall be that which is announced immediately preceding the date on which payment is made. Such interest shall be calculated monthly, not in advance, with interest on overdue interest occurring daily at the same rate until fully paid.

- 8.3. Payment hereunder shall be made by cheque made payable to "Makivik Corporation for the benefit of the Inuit of Quebec" and made available on the date of issuance thereof in the offices of DIAND during working hours to the duly authorized representative of Makivik in Ottawa, designated by Makivik for such purposes, written notice of which designation shall be given to Canada at least fifteen (15) days in advance of any such payment.

## 9. Acknowledgements

9.1. The Inuit of Quebec acknowledge that payment to them by Canada of the sum referred to in paragraph 8.1 above completely fulfills whatever financial responsibility, if any, Canada may have to the Inuit of Quebec under the JBNQA for the following:

- a) Inuit costs related to the implementation negotiations giving rise to this Agreement and to the Inuit participation in and representation on the Working Groups;
- b) Other than any rights the Inuit may have under paragraphs 2.11 and 2.12 of the JBNQA for ongoing programs and funding, any rights the Inuit may have under the JBNQA for a financial contribution by Canada for funding the following:
  - 1) The operation and administrative costs of Inuit Landholding Corporations;
  - 2) Inuit Heritage, Culture and Language Preservation;
  - 3) Wildlife studies, research, and harvest monitoring by Makivik, the KRG, or a related Inuit organization; the foregoing shall not prevent such entities from carrying out such activities themselves or with the cooperation or under the control of Canada;
  - 4) Transportation, including the various items referred to in paragraph 29.0.36 of the JBNQA, provided that Canada executes an agreement establishing a Northern Quebec Marine Transportation Infrastructure Program in accordance with the provisions of Annex E (Marine Transportation) attached hereto;

- 5) ~~Hiring and training of Inuit conservation officers (paragraph 24.10 of the JBNQA), without prejudice to any application of Section 29 of the JBNQA (employment priority);~~
- 6) ~~Establishment of detention institutions referred to in paragraphs 20.0.25 and 20.0.26 of the JBNQA, without prejudice to the rights of all Inuit persons to be detained in accordance with the provisions of paragraph 20.0.26 of the JBNQA;~~
- 7) ~~Any costs related to the Umiujaq relocation (paragraph 6.4 of the JBNQA);~~
- 8) ~~Training centres and related facilities (paragraph 29.0.25 of the JBNQA).~~

Training centres and facilities are not in the current five year (89-94) education capital plan for the Kativik School Board as presented by Quebec and approved by Canada. Canada reserves the right to oppose the inclusion of such training centres and facilities in any education capital budgets for future years; but if they are included in a capital budget approved by Canada for the period after March 31, 1994, Canada would fund its capital portion in accordance with paragraph 17.0.85 of the JBNQA.

However, if such a facility is built before March 31, 1994, Canada will pay, in accordance with paragraph 17.0.85 of the JBNQA, 25% of the overhead costs unfunded by other programs, (but will not pay other operations and maintenance costs), up to a maximum of fifty thousand 1989 dollars (\$50,000; 1989 dollars) per year. If the facility is built after March 31, 1994, the same rule shall apply except for the \$50,000 (1989 dollars) maximum.

9.2. The Inuit of Quebec acknowledge that Canada, subject to the conditions set out hereinbelow, has fulfilled and/or is fulfilling, as the case may be, any obligations it may have under the provisions of Section 29 of the JBNQA referred to below with respect to the following:

- a) Employment and Contract Priority, provided that Canada performs its obligations under Annex A (Inuit Employment and Contract Priority) hereto, and for as long as the policies proposed therein are in effect (paragraphs 29.01, 29.03, and 29.0.28 to 29.0.32 of the JBNQA);
- b) Manpower and Training, provided that Canada performs its obligations under Annex D (Manpower and Training Programs)

hereto, and for as long as the agreements proposed therein are in effect (paragraphs 29.0.1, 29.0.3, 29.0.4 and 29.0.24 to 29.0.27 of the JBNQA);

- c) ~~Economic and Social Development~~, provided that Canada performs its obligations under Annex F (Socio-Economic Development) hereto, and for as long as the agreements proposed therein between the KIF/KRDC and ISTC, and between the KIF/KRDC and DIAND are in effect, (paragraphs 29.0.1, 29.0.3, 29.0.4, 29.0.33 to 29.0.35 and 29.0.37 to 29.0.39 of the JBNQA);
- d) Paragraph 29.0.36 of the JBNQA, provided that Canada executes an agreement establishing a Northern Quebec Marine Transportation Infrastructure Program in accordance with Annex E (Marine Transportation) hereto.

9.3. The Inuit of Quebec acknowledge that Canada, provided it participates in the Justice/Solicitor General Working Group(s) as outlined in Annex C hereto, ~~has fulfilled its obligations under paragraphs 20.0.20 and 20.0.21~~ of the JBNQA.

9.4. For each Annex A to G, once the various recommendations, reports, draft agreements, and memoranda of understanding or draft policies, as the case may be, have been agreed to and are in effect in accordance with the provisions of the Annex in question, Canada shall have no outstanding obligations arising under the said Annex.

## 10. Representation and Warranty; Indemnification

10.1. Makivik hereby represents and warrants to Canada that it is duly acting on behalf of the Inuit of Quebec.

10.2. Provided Canada shall have complied with all of its financial obligations hereunder and provided Canada is in compliance with the warranty hereby given that it is not aware of any claim (as hereafter defined), Makivik Corporation or its successors ("Makivik") ~~agrees to indemnify and hold Canada harmless from and against all manner of financial obligation or responsibility,~~ including damages and reasonable legal and other costs, resulting from any claim or action (collectively the "claim") by the Inuit of Quebec, ~~collectively or individually,~~ against Canada, after the execution of this Agreement and arising from or related to any financial obligation or responsibility that Canada may have towards the Inuit of Quebec, for which Canada has obtained from Makivik, on behalf of the Inuit of Quebec, express acknowledgements under Section 9 herein, provided such acknowledgements, wherever conditional, remain in effect and subject to the conditions and on the terms set out hereinafter:

- a) Canada shall advise Makivik, in writing, immediately upon learning of any such claim or any potential cause for such claim;
- b) Canada shall respond to, and where necessary contest, any claim diligently and in good faith, and shall not by its actions directly or indirectly exacerbate the potential liability of Makivik thereunder;
- c) Canada shall advise Makivik on a regular and timely basis of the progress and, where applicable, the results of any claim as well as any negotiations attendant thereto;
- d) Canada shall have no right against Makivik where Canada, without the prior written consent of Makivik, consents by private agreement to any payment or settlement with respect to any claim;
- e) Makivik shall incur no liability hereunder before a final settlement by private agreement in accordance with paragraph d) above or before a final and binding decision by a tribunal or authority having jurisdiction, provided that Canada shall, unless Makivik agrees otherwise, have exhausted all avenues of appeal in a reasonably timely fashion;
- f) Any amounts owing by Makivik to Canada hereunder shall be paid on the following terms:
  - 1) Canada shall give written notice (Notice of Payment) of the amount owing giving a complete and detailed account thereof;
  - 2) Makivik shall be entitled to contest the amount indicated in the Notice of Payment by giving written notice to Canada of its intention in this regard within sixty (60) days of the date the Notice of Payment is received. In the event that Makivik gives such notice, then the matter shall be dealt with in accordance with Annex H (Dispute Resolution Mechanism) hereof;
  - 3) amounts owing by Makivik to Canada hereunder shall be payable upon expiry of the sixty (60) day delay referred in subparagraph 2) above or thirty (30) days after binding arbitration (hereafter the "due date");
  - 4) Makivik, in its sole discretion, is entitled to pay amounts owing hereunder in one lump sum payment on the due date, or by equal instalments payable monthly, semi-annually or annually for a period not exceeding

five (5) years from the due date. Any balance outstanding after the due date will bear interest at a rate per annum calculated at one and one-half percent (1 1/2%) plus the average accepted tender rate of Government of Canada three (3) month Treasury bills, as announced each week by the Bank of Canada on behalf of the Minister of Finance, calculated semi-annually and not in advance and is payable with each instalment of the capital. If Makivik elects to pay by instalments it may execute its entire obligation hereunder at any time without penalty by paying the balance of the amount owing plus the interest accruing thereon as at the date of payment;

- g) Makivik's obligations hereunder shall be limited to the sum of \$2,000,000 with respect to each individual claim. Makivik's entire obligation hereunder with respect to the total of all claims shall be limited to the sum of \$10,000,000 in the aggregate;
- h) Makivik shall not have any obligations hereunder for any claims made after the fifth anniversary of the date of this Agreement coming into force;
- i) Makivik shall have the right to assume the defence of and, where necessary, contest any claim against Canada including appeal and settlement and Canada shall provide such reasonable cooperation or assistance as Makivik may require in this regard;
- j) Makivik shall have no responsibility hereunder for any vicarious, consequential, incidental or indirect damages of any kind or costs in relation thereto in connection with or arising from any claim.

#### 11. Health and Social Programs

The Inuit of Quebec shall have access to applicable federal health and social programs where there are no equivalent programs offered by Quebec, without prejudice to any rights Canada may have to claim a contribution from Quebec for such federal programs.

#### 12. Offshore Islands

This Agreement is without prejudice to any claims the Inuit of Quebec have or may have to the offshore area.

13. Delays

Any delays beyond the dates fixed in this Agreement for the carrying out of the provisions of this Agreement and the Annexes may be extended by mutual consent of the Parties hereto. Canada will not be in default of any delays so fixed unless Canada is solely responsible for said default.

14. Monitoring of Implementation

The JBIO shall monitor the implementation of this Agreement.

15. Supersession

The Parties hereto acknowledge that this Agreement shall supersede and cancel the Agreement-in-Principle and Annexes thereto entered into between the Inuit Negotiator and the Federal Negotiator and referred to in paragraph A of the Preamble hereto.

16. Amendments

No provision of this Agreement may be waived, modified or amended in any respect except in writing, signed by an authorized representative of each of the Parties. Waiver by either Party of any right under this Agreement in a given instance or failure to enforce any provision shall not operate thereafter as a waiver of that right or that provision or of any other right or provision of this Agreement.

17. Effect of Annexes

Annexes A to H hereof, attached hereto, form an integral part of this Agreement.


18. Governing Law

This Agreement and the related or ancillary agreements contemplated by the Annexes hereto shall be governed by and construed in accordance with the laws of the Province of Quebec.

IN WITNESS WHEREOF, this Agreement has been executed in quadruplicate by the duly authorized representatives of the Parties on the date first above-written.

EXECUTED at Hull, on this 12<sup>th</sup> day of Sept, 1990.


FOR AND ON BEHALF OF HER MAJESTY THE QUEEN IN RIGHT OF CANADA:

By:   
The Minister of Indian Affairs and  
Northern Development

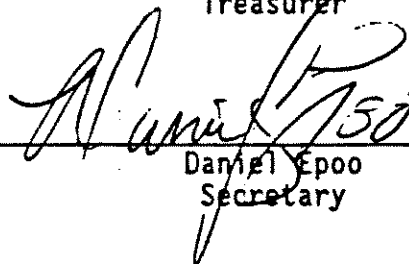
  
Witness

EXECUTED at Montreal, on this 12<sup>th</sup> day of September, 1990.

FOR AND ON BEHALF OF MAKIVIK CORPORATION:

By:   
Jackie Koneak  
Second Vice-President

  
Willie Watt  
Treasurer

  
Daniel Epoo  
Secretary

  
Witness

INUIT EMPLOYMENT AND CONTRACT PRIORITY

PART I

POLICY ON

EMPLOYMENT OF ABORIGINAL PEOPLE RESIDING IN THE  
JAMES BAY AND NORTHERN QUEBEC AGREEMENT TERRITORY  
NORTH OF THE 55TH PARALLEL

1. Definitions:

- 1.1. "JBNQA": The James Bay and Northern Quebec Agreement entered into on November 11, 1975, as amended from time to time in accordance with paragraph 2.15 thereof;

2. Policy:

Canada agrees to assist aboriginal people, defined for the present purposes to be beneficiaries pursuant to the JBNQA, seeking employment in the federal Public Service within the JBNQA Territory. This will be done by developing and establishing Memoranda of Understanding between the Treasury Board as employer and federal government departments and agencies who have operations in the area mentioned above:

- 2.1. To include employment targets which reflect the work force availability of qualified aboriginal people in the area mentioned above.
- 2.2. To include measures to identify federal Public Service employment opportunities and to advertise vacancies to aboriginal communities in the area mentioned above. Wherever possible, this would include anticipated vacancies, to allow adequate time for the training and development of potential employees. This would be done through and in cooperation with the Kativik Regional Government.
- 2.3. To include measures that will promote an understanding of and access to the workplace by aboriginal people and support for job applicants, such as:



- a) selection boards will include whenever and wherever reasonably possible, aboriginal individuals for selection interviews for positions in the area mentioned above;
  - b) summer jobs for aboriginal students, to provide orientation to the workplace and to allow students an opportunity to view/sample various trade and technical careers which may stimulate an interest in studies leading to employment in one of the areas;
  - c) departmental participation in career awareness activities at local schools in cooperation with the Kativik Regional Government and the Kativik School Board; and,
  - d) departmental participation in school work-term orientation of short duration.
- 2.4. To provide for appropriate training, skill development and upgrading courses so as to provide aboriginal employees with opportunities for advancement and promotion within the federal Public Service.
- 2.5. To staff positions according to the minimum requirements as defined in the selection standards so that aboriginal people have a reasonable opportunity of being hired. Skills related to the language or culture of aboriginal people will be taken into due consideration in the evaluation of candidates, in relation to the job requirements.

3. Monitoring and Reporting:

- 3.1. The Treasury Board Secretariat will monitor targets set by departments and propose adjustments, if necessary, to ensure the representation reflects, at least, aboriginal workforce availability for the area.
- 3.2. The implementation of this Policy shall be carried out within six (6) months of the Order in Council approving this Agreement.

# INUIT EMPLOYMENT AND CONTRACT PRIORITY

## PART II

### POLICY ON

#### JAMES BAY AND NORTHERN QUEBEC AGREEMENT PROCUREMENT

##### 1. Objective:

- 1.1. The objective of this policy is the continued implementation of the contract priority provisions of the James Bay and Northern Quebec Agreement (JBNQA) in relation to all contracts created by projects initiated or conducted by Canada or its agents, delegates, contractors or sub-contractors.
- 1.2. In addition to fulfilling its obligations under the JBNQA, Canada recognizes that public sector policies and directives, which have the effect of determining the manner in which goods, services and supplies are purchased by Canada under contractual arrangements with firms and individuals in the private sector, constitute an important consideration in the development of strategies in support of the growth, diversification and stabilization of the economy of the Inuit communities of the Territory.

##### 2. Policy:

- 2.1. To achieve the above mentioned objectives, Canada shall, in accordance with the Government Contracts Regulations and Government contracting policy, take all reasonable measures to encourage Inuit participation with respect to contracts awarded by Canada in the Territory.
- 2.2. Canada shall develop, implement and maintain this policy in consultation with Makivik Corporation, and shall implement the policy through the required measures.
- 2.3. The policy and implementing measures shall be carried out in a manner that recognizes the developing nature of the economy and labour force of the Territory.
- 2.4. The policies and implementing measures shall, to the greatest extent possible, be designed to achieve the following objectives:

- a) increased participation by Inuit firms in business opportunities in the economy of the Territory;
- b) enhancement of the ability of Inuit firms to compete for and obtain government contracts;
- c) the awarding of a fair share of government contracts in the Territory to qualified Inuit firms; and,
- d) employment of Inuit at a representative level in the workforce of the Territory.

### 3. Definitions:

- 3.1. "Bid Invitation": means to call publicly for bids;
- 3.2. "Bid Solicitation": means to request bids from a limited number of businesses based on some form of prequalification or selection criteria;
- 3.3. "Canada": means the Government of Canada, which shall be deemed to include all departments and departmental corporations listed in Schedules I and II, Part I of the Financial Administration Act, Chapter F-11;
- 3.4. "Government Contract": means any procurement contract between Canada and a party other than Canada, and includes:
  - a) contracts for the supply of goods;
  - b) construction contracts;
  - c) contracts for the supply of services; and,
  - d) leases taken by Canada.
- 3.5. "Inuit": means beneficiaries pursuant to paragraphs 3.2.4, 3.2.5 and 3.2.6 of the JBNQA;
- 3.6. "Inuit firm": means an entity which complies with the legal requirements to carry on business in Northern Quebec, and which:
  - a) is a limited company with, in the case of a share-capital company, at least 51% of the company's voting

shares beneficially owned by one or more Inuit, or with, in the case of a non-share capital company, at least 51% of the voting members being Inuit, or which is a subsidiary of such limited company with at least 51% of the subsidiary's voting shares owned by such company;

- b) is a cooperative controlled by Inuit; or
- c) is a sole proprietorship owned by Inuit; or a partnership, joint venture or consortium, at least 50% of which is owned by Inuit.

3.7. "JBNQA":

The James Bay and Northern Quebec Agreement entered into on November 11, 1975, as amended from time to time in accordance with paragraph 2.15 thereof;

3.8. "JBIO":

The JBNQA Implementation Negotiations Office established pursuant to Cabinet decisions, dated June 26, 1986 and March 24, 1988, for purposes of the JBNQA Implementation Negotiations, until the Office contemplated by paragraph 4.2 of this Agreement becomes operational and, thereafter, the said Office;

3.9. "Makivik":

Makivik Corporation, the corporation established by the Act to establish the Makivik Corporation (R.S.Q., ch. S-18.1), and constituted as the Inuit Native Party for purposes of the JBNQA pursuant to paragraph 1.11 thereof;

3.10. "Representative level of employment":

means a level of Inuit employment in Northern Quebec that reflects the ratio of Inuit to the total population of the Territory;

3.11. "Territory":

means the area in the province of Quebec north of the 55th parallel of latitude, as delineated in the JBNQA.

4. List of Inuit Firms:

- 4.1. Makivik shall prepare and maintain a comprehensive list of Inuit firms, which will include information on the goods and services those firms would be in a position to furnish in relation to actual or potential government contracts. Makivik shall undertake the necessary measures to ensure that this data is maintained and updated on a continuous basis.
- 4.2. Makivik shall ensure that the List of Inuit Firms is provided to the federal government departments and agencies active in the Territory.
- 4.3. The List of Inuit Firms shall be used by Canada for purposes of requesting Inuit firms to participate in solicited bidding, but shall not restrict the ability of any Inuit firm to tender bids for government contracts, in accordance with the Bid Invitation process, outlined in Section 9 below.

5. Contracting Procedures:

- 5.1. Canada shall, upon the request of Makivik, provide reasonable assistance in familiarizing Inuit firms with the contracting procedures of Canada.

6. Planning of Government Contracts:

- 6.1. In the planning stage of government contracts for the provision of goods, services, construction, or leases in the Territory, Canada shall undertake all reasonable measures to provide opportunities to qualified Inuit firms to compete for and obtain such government contracts. These measures will include, but are not necessarily limited to:
  - a) setting the date, location, and terms and conditions for bidding so that Inuit firms may readily bid;
  - b) inviting bids by commodity groupings to permit smaller and more specialized Inuit firms to bid;
  - c) permitting bids for goods and services for a specified portion of a larger contract package to permit smaller and more specialized Inuit firms to bid;
  - d) designing construction contracts in a way so as to increase the opportunity for smaller and more specialized Inuit firms to bid; and,

- e) avoiding artificially inflated employment skill requirements not essential to the fulfilment of the contract.

## 7. Bid Evaluation Criteria:

- 7.1. Whenever practicable and consistent with sound procurement management, all of the following criteria, or as many as may be appropriate with respect to any particular government contract, shall be included in the bid evaluation criteria established by Canada for the awarding of government contracts in the Territory:
  - a) the contribution by Inuit in carrying out the contract, which will include, but shall not be limited to, the employment of Inuit labour, the engagement of Inuit professional services or the use of Inuit suppliers;
  - b) the existence or creation of permanent head offices, administrative offices or other facilities in the Territory; and,
  - c) the undertaking of commitments, under the contract, with respect to on-the-job training or skills development for the Inuit.

## 8. Bid Solicitation:

- 8.1. Wherever practicable and consistent with sound procurement management, Canada will first solicit bids from within the Territory.
- 8.2. Where Canada intends to solicit bids for government contracts in the Territory, Canada will make all possible attempts to award contracts to qualified Inuit firms. To this end, contracts to be awarded in the Territory shall take into account the measures outlined in Section 6 above.
- 8.3. Where Canada intends to solicit bids for government contracts in the Territory, Canada shall take all reasonable measures to determine if there are Inuit firms qualified to perform government contracts. This determination will usually be made by way of reference to the List of Inuit Firms referred to in paragraph 4.1 above.
- 8.4. Where it is determined that there is a single firm within the Territory qualified to perform a government contract, Canada will solicit that firm to submit a bid for the government contract. The contract may be awarded upon negotiation of acceptable terms and conditions.

- 8.5. Where Canada intends to solicit bids from more than one qualified firm within the Territory, Canada shall take all reasonable measures to determine if there are Inuit firms qualified to perform the government contract, and shall solicit bids from those Inuit firms. This determination will usually be made by way of reference to the List of Inuit Firms, referred to in paragraph 4.1 above. The contract, if awarded, shall take into account the Bid Evaluation Criteria, contained in paragraph 7.1 above.
- 8.6. Where a contract has been awarded in accordance with the provisions of paragraphs 8.4 or 8.5 above, it is the responsibility of the contracting authority to ensure that the contract document contains appropriate terms and conditions to make certain that sub-contractors to the contractor are also subject to the intent and the specific provisions of the contract.

9. Bid Invitation:

- 9.1. Wherever practicable, and consistent with sound procurement management, Canada will first invite bids from within the Territory.
- 9.2. Where Canada intends to invite bids for government contracts to be performed in the Territory, Canada shall take all reasonable measures to inform Inuit firms of such bids, and to provide Inuit firms with a fair and reasonable opportunity to submit bids. These measures will include the measures outlined in Section 6, above.
- 9.3. Where Canada intends to invite bids for government contracts to be performed in the Territory, the Bid Invitation process shall take into account the Bid Evaluation Criteria referred to in Section 7 above.
- 9.4. Where a contract has been awarded in accordance with the provisions of paragraph 9.3 above, it is the responsibility of the contracting authority to ensure that the contract document contains appropriate terms and conditions to make certain that sub-contractors to the contractor are also subject to the intent and the specific provisions of the contract.

10. Monitoring and Reporting:

- 10.1. The JBIO, in cooperation with Makivik, shall take the necessary measures to monitor and report on the implementation of the government policy contained herein.
- 10.2. In the event of any disagreement regarding the interpretation of the Agreement contained herein, the parties to the disagreement shall, in the first instance, refer said disagreement to the JBIO for resolution. Resolution may, but shall not necessarily, include reference of said disagreement to the Dispute Resolution Mechanism established between Canada and Makivik under this Agreement.
- 10.3. Canada, through the JBIO, in cooperation with Makivik, shall use its best efforts to obtain from those federal Crown corporations not contemplated by the definition of "Canada", cited above, which are active in the Territory, their accession to this policy.



**INUIT ELIGIBILITY FOR AND ACCESS TO  
FEDERAL PROGRAMS AND FUNDING**

**1. Definitions:**

- 1.1. "JBNQA": The James Bay and Northern Quebec Agreement, entered into on November 11, 1975, as amended from time to time in accordance with paragraph 2.15 thereof;
- 1.2. "JBIO": The JBNQA Implementation Negotiations Office established pursuant to Cabinet decisions, dated June 26, 1986 and March 24, 1988, for purposes of the JBNQA Implementation Negotiations, until the Office contemplated by paragraph 4.2 of this Agreement becomes operational and, thereafter, the said Office;
- 1.3. "Makivik": Makivik Corporation, the corporation established by the Act to establish the Makivik Corporation (R.S.Q., ch. S-18.1), and constituted as the Inuit Native Party for purposes of the JBNQA pursuant to paragraph 1.11 thereof;
- 1.4. "Inuit Negotiator": The person appointed by Makivik on March 8, 1988 to represent the Inuit of Quebec for purposes of the JBNQA Implementation Negotiations, or his successor;
- 1.5. "DIAND": Department of Indian Affairs and Northern Development;
- 1.6. "Inuit" or "Inuit of Quebec": The Inuit beneficiaries as defined under Section 3 of the James Bay and Northern Quebec Agreement;

**2. Agreement-in-principle:**

The Government of Canada agrees to review in accordance with specific guidelines set out in paragraph 4.1 below and, if necessary, to develop and make recommendations on how to change federal program criteria in order to ensure that the Inuit of Quebec have equal access to all federal programs on the same basis as other Indians and Inuit of Canada, as well as to all federal programs available to other Canadians.

3. Organization of the Working Group:

- 3.1. The Working Group shall consist of a representative appointed by DIAND and a representative appointed by Makivik. Each member may be supported by such other persons as said member may choose.
- 3.2. DIAND and Makivik shall be responsible for their own costs related to the Working Group. Unless they agree otherwise, they shall bear equally the agreed in advance common costs related to the Working Group.

4. Plan of Action:

- 4.1. The review referred to in Section 2 above shall be conducted in accordance with guidelines as follows:
  - 4.1.1. Federal programs and services shall be deemed to apply to the Inuit of Quebec unless the subject matter of such programs and services has been the object of special provisions and benefits under the JBNQA under which the Inuit of Quebec have access to equivalent benefit in the place and stead of such programs and services;
  - 4.1.2. Federal programs and services shall be deemed to apply to the Inuit of Quebec unless responsibility for the delivery of such programs and services has been wholly assumed by Quebec pursuant to the provisions of the JBNQA, without reduction to such programs and services;
  - 4.1.3. Federal programs and services shall be deemed to apply to the Inuit of Quebec unless the subject matter of such programs and services is under the exclusive jurisdiction of Quebec;
  - 4.1.4. Canada's funding of the Inuit of Quebec under federal programs and services shall be subject to any applicable rules respecting the double-funding of a project or undertaking proposed to be funded under such federal programs and services, provided that this shall not be interpreted to prevent Inuit eligibility for and access to joint financing or to enriched programs and services; and,
  - 4.1.5. Federal programs and services do not include income tax exemptions pursuant to the Indian Act or any order thereunder.

- 4.2. Within nine (9) months after the Order in Council approving this Agreement, the Working Group shall submit to the JBIO and the Inuit Negotiator, for their respective approval, a report containing its recommendations and stating any necessary modifications to existing criteria. The report shall specifically point out any amendment to program eligibility criteria that might require Cabinet or Treasury Board approval.

Any changes to federal program eligibility criteria made to ensure access by the Inuit of Quebec to such programs do not represent in themselves a commitment to increase the overall federal funding applicable to such programs from time to time.

- 4.3. The JBIO shall seek to obtain Cabinet and/or Treasury Board approval for any amendment to program eligibility criteria proposed in the report referred to in paragraph 4.2 above that might require such approval.
- 4.4. Changes in program eligibility criteria suggested by the report referred to in paragraph 4.2 above shall be completed by the relevant government department within six (6) months of said report being approved by the JBIO and the Inuit Negotiator under the provisions of paragraph 4.2 above, or, where applicable, within 6 months of the changes being approved by Cabinet and/or Treasury Board.

5. Implementation:

- 5.1. The JBIO shall oversee the implementation of the changes referred to in paragraph 4.4 above.

JUSTICE/SOLICITOR GENERAL

1. Definitions:

- 1.1. "JBNQA": The James Bay and Northern Quebec Agreement, entered into on November 11, 1975, as amended from time to time in accordance with paragraph 2.15 thereof;
- 1.2. "JBIO": The JBNQA Implementation Negotiations Office established pursuant to Cabinet decisions, dated June 26, 1986 and March 24, 1988, for purposes of the JBNQA Implementation Negotiations, until the Office contemplated by paragraph 4.2 of this Agreement becomes operational and, thereafter, the said Office;
- 1.3. "Makivik": Makivik Corporation, the corporation established by the Act to establish the Makivik Corporation (R.S.Q., ch. S-18.1), and constituted as the Inuit Native Party for purposes of the JBNQA pursuant to paragraph 1.11 thereof;
- 1.4. "Inuit Negotiator":  
The person appointed by Makivik on March 8, 1988 to represent the Inuit of Quebec for purposes of the JBNQA Implementation Negotiations, or his successor;
- 1.5. "KRG": Kativik Regional Government, established pursuant to Section 13 of the JBNQA;
- 1.6. "Justice": Department of Justice Canada;
- 1.7. "Solicitor General":  
Department of the Solicitor General Canada.

2. Agreement-in-principle:

Canada is of the view that it is impractical to fulfil the letter of the paragraphs of the JBNQA referred to in paragraph 9.3 of this Agreement.

Therefore, Canada and the Inuit of Quebec have agreed to investigate, to make recommendations, and where it is practical and within Canada's jurisdiction and has received appropriate departmental approval, to improve the justice system as it applies to the Inuit of Quebec. This may require separate Working Groups for Justice and Solicitor General issues. Quebec shall be invited to participate in both.

Canada will, if invited by Quebec, participate in a similar Quebec Working Group(s).

In addition, Canada and the Inuit of Quebec have agreed to informal but regular biannual meetings between appropriate representatives of Justice and the Solicitor General and the Inuit of Quebec (to discuss) progress and problems relating to Native justice.

3. Organization of the Working Group(s):

3.1. The Working Group will consist of a representative appointed by Justice, a representative appointed by Solicitor General, a representative appointed by Makivik and a representative appointed by the KRG. Each representative may be supported by such other persons as said representative may choose. Within two months of the date of the Order in Council approving this Agreement, these representatives shall invite two representatives of the Province of Quebec to participate in this Working Group.

3.2. In the event that separate Working Groups are required to deal with Justice and Solicitor General issues, each Working Group will consist of a representative appointed by the relevant federal department and a representative appointed by each of Makivik and the KRG. The provisions of paragraph 3.1 above and of Section 4 below shall apply mutatis mutandis to those separate Working Groups, with one representative of the Province of Quebec invited to participate in each separate Working Group.

3.3. Each party to the Working Group(s) shall be responsible for its own costs related to the Working Group(s). Unless the parties to the Working Group(s) agree otherwise, the approved in advance common costs related to the Working Group(s) shall be borne equally by the parties to the Working Group(s).

4. Plan of Action:

4.1. The Working Group shall meet and discuss how to achieve the agreement-in-principle stated in Section 2 above and shall make specific recommendations and proposals in order to achieve said agreement-in-principle.

4.2. No later than twelve (12) months following the Order in Council approving this Agreement, the Working Group shall submit its recommendations for approval to Justice, Solicitor General, the JBIO and the Inuit Negotiator, and in particular report whether any modifications to existing authorities, programs or services would be necessary to implement the said recommendations and whether any such modifications require specific Cabinet approval.

In the event any such recommendations require Cabinet approval, the JBIO shall oversee the submission of same to Cabinet. No later than twenty-four (24) months following the Order in Council approving this Agreement, Justice and Solicitor General shall make their position on said recommendations known to the JBIO and the Inuit Negotiator.

5. Implementation:

5.1. The JBIO shall oversee the implementation by the Government of Canada of the approved recommendations referred to in paragraph 4.2 above.

**MANPOWER AND TRAINING PROGRAMS**

**1. Definitions:**

- 1.1. "JBNQA": The James Bay and Northern Quebec Agreement, entered into on November 11, 1975, as amended from time to time in accordance with paragraph 2.15 thereof;
- 1.2. "JBIO": The JBNQA Implementation Negotiations Office established pursuant to Cabinet decisions, dated June 26, 1986 and March 24, 1988, for purposes of the JBNQA Implementation Negotiations, until the Office contemplated by paragraph 4.2 of this Agreement becomes operational and, thereafter, the said Office;
- 1.3. "EIC": Employment and Immigration Canada;
- 1.4. "Kativik Region":  
The territory in Northern Quebec under the administrative jurisdiction of the KRG;
- 1.5. "KRG": Kativik Regional Government, established pursuant to Section 13 of the JBNQA.

**2. Agreement-in-principle**

- 2.1. Canada shall enter into agreements with KRG relating to the assumption by KRG of responsibility for the administration and delivery of training programs and employment services currently provided by EIC in the Kativik Region.
- 2.2. The term of the agreements shall be three (3) years. The agreements shall include a provision that they may, prior to expiry, be renewed for a further term, the duration to be then determined, on such terms and conditions as the parties may then agree, subject, however, to the continuation of the underlying EIC programs and services contemplated by these agreements, or of the programs or services in replacement or substitution thereof.
- 2.3. Total funding for the first year of the agreements (fiscal year 1990-1991) shall be \$4,987,000, as described in the operational plan agreed between Canada and KRG.

- 2.4. Subject to a KRG operational plan, approved by EIC, indicating details of the proposed delivery of programs and services to the inhabitants of Kativik Region for the year in question, supporting the expenditure of the proposed funding, funding for each of the second and third years shall be as follows:
  - 2.4.1. the operation budget component of the funding shall not be less than \$1,692,600 for the second year, and \$1,777,230 for the third year;
  - 2.4.2. the program component of the funding shall not be less than the program component of the funding provided for in the first year escalated for each of the second and third years in accordance with annual EIC program expenditure budget increases for the Quebec Region, if any, for such programs or any replacement or substitution thereof, subject, however, to a proportional decrease which may result from a documented decrease in funding by Canada for the Quebec Region of the underlying EIC program funds contemplated in these agreements, provided that:
    - (i) programs and services available to native people shall not have been excluded from such decreases; and
    - (ii) no such decrease shall apply except as directed by the EIC Regional Director after consultation with KRG and the Joint Committee established under the agreements.
3. The said agreements shall include but not be limited to provisions dealing with the following issues:
  - 3.1. Principles of cooperation between EIC and KRG;
  - 3.2. Financial and administrative responsibilities of EIC and KRG;
  - 3.3. Collecting and sharing of data;
  - 3.4. Evaluation and monitoring;
  - 3.5. Methods of implementation;
  - 3.6. Access to information;
  - 3.7. Conflict of interest guidelines;
  - 3.8. Financing, subject to and in accordance with the provisions and conditions set out in Section 2 above;



3.9. Staffing;

3.10. Description of activities to be conducted by KRG;

3.11. Terms and conditions of training programs;

3.12. Duration of the said agreements.

4. KRG's execution of the aforesaid agreements shall require the approval of the Government of Quebec in accordance with Sections 3.11 and 3.12 of the Act respecting the Ministère du Conseil exécutif.

5. The Government of Canada further agrees that the Minister of Employment and Immigration be authorized to enter into the said agreements with KRG.

6. Implementation:

The JBIO shall oversee the implementation of the agreements and such implementation shall commence as of the execution of this Agreement and shall be carried out within six (6) months of the Order in Council approving this Agreement.

**MARINE TRANSPORTATION**

1. Definitions:

- 1.1. "JBNQA": The James Bay and Northern Quebec Agreement, entered into on November 11, 1975, as amended from time to time in accordance with paragraph 2.15 thereof;
- 1.2. "JBIO": The JBNQA Implementation Negotiations Office established pursuant to Cabinet decisions, dated June 26, 1986 and March 24, 1988, for purposes of the JBNQA Implementation Negotiations, until the Office contemplated by paragraph 4.2 of this Agreement becomes operational and, thereafter, the said Office;
- 1.3. "Makivik": Makivik Corporation, the corporation established by the Act to establish the Makivik Corporation (R.S.Q., ch. S-18.1), and constituted as the Inuit Native Party for purposes of the JBNQA pursuant to paragraph 1.11 thereof;
- 1.4. "Inuit Negotiator":  
The person appointed by Makivik on March 8, 1988 to represent the Inuit of Quebec for purposes of the JBNQA Implementation Negotiations, or his successor;
- 1.5. "KRG": Kativik Regional Government, established pursuant to Section 13 of the JBNQA;
- 1.6. "MTQ": Quebec Ministry of Transport;
- 1.7. "TC": Transport Canada;
- 1.8. "NQMTIP": Northern Quebec Marine Transportation Infrastructure Program;
- 1.9. "F&O": Fisheries and Oceans Canada.

2. Agreement-in-principle:

To establish a Northern Quebec Marine Transportation Infrastructure Program including an implementation schedule, the Program to become effective no later than October 1, 1994.

3. Organization of the Working Group:

- 3.1. The Working Group shall consist of a representative appointed by TC, a representative appointed by F&O, a representative appointed by MTQ, a representative appointed by KRG and a representative appointed by Makivik. Each representative may be supported by such other persons as said representative may choose.
- 3.2. MTQ, TC, F&O, Makivik and KRG shall be responsible for their own costs related to the Working Group. Unless they agree otherwise, they shall bear equally the agreed in advance common costs related to the Working Group.

4. Plan of Action:

- 4.1. The Working Group shall meet and discuss how best to achieve the agreement-in-principle set out in Section 2 above.
- 4.2. The Working Group shall prepare a draft NQMTIP agreement between MTQ, TC, F&O and KRG which shall have as its purpose the achievement of the agreement-in-principle set out in Section 2 above.
- 4.3. The draft NQMTIP agreement shall include, but not be limited, to dealing with each of the following issues:
  - 4.3.1. the scope, framework and timetable of the appropriate studies to be undertaken;
  - 4.3.2. the general specifications of any marine infrastructure and related equipment to be built or purchased;
  - 4.3.3. a construction schedule;
  - 4.3.4. the technical responsibilities of each party to the Working Group with respect to the proposed NQMTIP;
  - 4.3.5. the duration of the NQMTIP agreement; and,
  - 4.3.6. the ownership, operation and maintenance, by Quebec and Canada respectively, of such infrastructure and related equipment as may be identified in the construction schedule referred to in 4.3.3 and the proposed financing related thereto.
- 4.4. Within twelve (12) months of the Order in Council approving this Agreement, the Working Group shall submit a draft NQMTIP agreement

to the necessary persons in MTQ, TC, F&O, and KRG, for their respective approval.

- 4.5. Within twelve (12) months of the Order in Council approving this Agreement, the Working Group shall also report to the JBIO and to the Inuit Negotiator any modifications to existing authorities, programs, services or federal-provincial agreements that would be necessary to implement the draft NQMTIP agreement, how said modifications would be effected, and whether any such recommendations would require specific Cabinet approval.
- 4.6. Within twenty-four (24) months of the Order in Council approving this Agreement, MTQ, TC, F&O, and KRG shall make known their respective formal decision on the draft NQMTIP agreement submitted to them in accordance with the provisions of paragraph 4.4 above.

It is acknowledged that there is no guarantee as to the level of federal funding of the NQMTIP and, furthermore, that Canada would fund its share of the financing of any approved program out of normal Canadian program funding or out of any funding arising from special Canada-Quebec agreements or arrangements related to or including such Program.

5. Implementation:

- 5.1. The JBIO shall oversee the various steps set out above in paragraphs 4.1 to 4.6.
- 5.2. The JBIO shall oversee the implementation of the NQMTIP agreement in the event that it is approved by the appropriate authorities.

SOCIO-ECONOMIC DEVELOPMENT

PART I

INDUSTRY SCIENCE AND TECHNOLOGY

1. Definitions:

1.1. "Agreement":

The Agreement Respecting the Implementation of the James Bay and Northern Quebec Agreement of which this Annex forms an integral part;

1.2. "CAED Strategy":

Canadian Aboriginal Economic Development Strategy;

1.3. "current Contribution Agreement":

Signed between KIF & Her Majesty the Queen in Right of Canada as represented by the Minister of Regional Industrial Expansion, dated February 22, 1989;

1.4. "Inuit Negotiator":

The person appointed by Makivik on March 8, 1988 to represent the Inuit of Quebec for purposes of the JBNQA Implementation Negotiations, or his successor;

1.5. "Inuit" or "Inuit of Quebec":

The Inuit beneficiaries as defined under Section 3 of the JBNQA;

1.6. "ISTC":

Department of Industry, Science and Technology;

1.7. "JBIO":

The JBNQA Implementation Negotiations Office established pursuant to Cabinet Decisions, dated June 26, 1986 and March 24, 1988, for purposes of the JBNQA Implementation Negotiations, until the Office contemplated by paragraph 4.2 of this Agreement becomes operational and, thereafter, the said Office;

1.8. "JBNQA":

The James Bay and Northern Quebec Agreement, entered into on November 11, 1975, as amended from time to time in accordance with paragraph 2.15 thereof;

- 1.9. "Kativik Region":  
The territory in Northern Quebec under the administrative jurisdiction of the KRG;
- 1.10. "KRG":  
Kativik Regional Government, established pursuant to Section 13 of the JBNQA;
- 1.11. "KIF":  
Kativik Investment Fund, a corporation duly incorporated pursuant to the federal laws of Canada;
- 1.12. "KRDC":  
Kativik Regional Development Council, established pursuant to subsection 23.6 of the JBNQA;
- 1.13. "Makivik":  
Makivik Corporation, the corporation established by the Act to establish the Makivik Corporation (R.S.Q., ch. S-18.1), and constituted as the Inuit Native Party for purposes of the JBNQA pursuant to paragraph 1.11 thereof.

## 2. Agreement-in-Principle with ISTC

### 2.1. Program Delivery by KRDC

- 2.1.1. ISTC and KRDC agree to undertake the immediate development of terms and conditions for a contractual agreement under which:
- (a) KRDC will assist ISTC in the delivery of certain designated ISTC services related to the Business Development and Joint Venture Program of the CAED Strategy in consideration for monetary payments to be provided to KRDC by ISTC as per paragraph 2.1.3 below;
  - (b) KRDC performance shall be measured against a jointly-developed set of performance criteria which take into account KRDC's existing capacity and structure and the local and regional factors applicable in the Kativik Region served by KRDC (i.e., remoteness, size of territory, population, number of communities, limitations of transportation and communication links, etc.); and
  - (c) KRDC shall progressively increase its scope of work and level of responsibility regarding its activities referred to in paragraph (a) above,

based on a periodic evaluation of KRDC's performance by ISTC.

- 2.1.2. ISTC and KRDC shall agree upon a list of initial designated services which shall include (i) the promotion of ISTC programs, (ii) assistance to ISTC program applicants in developing proposals, (iii) the pre-analysis of projects prior to submission to ISTC, and (iv) the follow-up and monitoring of approved projects.
- 2.1.3. ISTC and KRDC shall enter into a contractual agreement to implement the foregoing, the terms and conditions of which shall include provisions, inter alia, for the following:
- (a) a term of three years, subject to an annual evaluation of satisfactory performance measured against the jointly-developed objectives and criteria referred to in 2.1.1 (b);
  - (b) the payments referred to in 2.1.1 (a), including a level of funding sufficient to meet all reasonable costs to KRDC for the provision of the designated services by one person;
  - (c) ISTC to supply training for the person providing the designated services re standard ISTC procedures and requirements of the business Development Program. Also, ISTC to pay for all reasonable expenses associated therewith including travel and lodging during visitation to ISTC's regional office required by that person for such purposes; and
  - (d) the coming into force of such contractual agreement no later than three months after the coming into force of the Agreement.
- 2.1.4. ISTC and KRDC intend and have as an objective that, after a period of at least three (3) years and not more than five (5) years, ISTC shall increase KRDC's level of responsibility for assuming the delivery and administration of ISTC's designated contribution programs aimed at the support, development and financing of native businesses for the Kativik Region. Any such increase in the level of responsibility to be assumed by KRDC shall be beyond the level already reached by KRDC in the third year of the contractual agreement envisaged and shall be subject to applicable existing ISTC policy and administrative constraints as

well as acceptable performance by KRDC in its handling of the responsibilities so assumed.

## 2.2. Expansion of KIF Activities and KIF Funding

ISTC guarantees KIF priority access to additional capital funding to allow it to meet market demand for the services offered to native entrepreneurs in the Kativik Region over a period of five years, by means of two separate increases, to be based on market demand projections for two consecutive 30 month periods, in the manner and on the conditions set out below.

### 2.2.1. ISTC will finance the cost of two third-party feasibility studies that will each:

- (a) have as an objective a market analysis and a measurement of the demand by the Inuit business community in the Kativik Region, over a 30-month period, for:
  - (i) the financial services offered by KIF as defined by the current Contribution Agreement between KIF & ISTC and the then current Policy and Procedures Manual developed by KIF and approved by ISTC; and
  - (ii) as a separate category, commercial loans that exceed the current maximum loan size specified in the then current Policy and Procedures Manual but are otherwise contemplated thereby;
- (b) have as a further objective the measurement of the incremental capital requirement needed by KIF to meet the above-measured demand over the two consecutive 30-month periods based on the following assumptions:
  - (i) the maintenance of KIF's role and objectives as defined by the then current Policy and Procedures Manual approved by ISTC;
  - (ii) the maintenance of the relative market shares being held by KIF and other commercial and governmental lending and loan guarantee institutions or programs;
  - (iii) the amount of KIF's outstanding loans for annual inventory resupply purposes



(sealift loans) shall not at any time subsequent to full disbursement of all contributions under the existing Contribution Agreement, except with ISTC's consent, exceed 50% of the capital disbursed to KIF;

(iv) the general loan limits applicable to KIF's current operations are to remain in effect until such time as the total capital disbursed to KIF by ISTC will have reached five million dollars. Once this threshold has been reached, these general loan limits will rise to \$150,000 for private businesses and \$300,000 for community-owned businesses except as may otherwise be agreed upon as provided for in (v) below;

(v) participation by KIF in financing of larger projects up to the loan limits specified in (iv) above, as well as beyond those limits on an exceptions basis with ISTC consent. For these large projects, ISTC agrees, in addition to the foregoing, to facilitate financing through its loan insurance and guarantee programs as well as any other programs as may be applicable.

(c) review and evaluate KIF's operating performance in the management of direct loans under its then current ISTC Contribution Agreement including but not limited to acceptable arrears and loss rates, operating cost ratios, asset quality tests, management capacity and cost effective service delivery; and

(d) identify ways and means to increase and diversify the financial services offered by KIF in Northern Quebec.

2.2.2. ISTC shall finance the entire cost of the two studies within the Terms and Conditions of the Aboriginal Capital Corporation Program by means of non-repayable contributions, the total of which shall not exceed the lesser of:

(a) 100% of the cost of engaging a qualified consultant; and

(b) \$250,000.

2.2.3. The first study shall commence on a date mutually agreed between ISTC and KIF but, in any event, not before August 1, 1990, nor later than January 1, 1991. The second study shall commence six months prior to the projected commencement date of the second 30 month period.

2.2.4. ISTC and KIF shall jointly develop the terms of reference for the studies, which shall be consistent with the terms and conditions governing the Aboriginal Capital Corporation Program. KIF shall propose a qualified consultant, the choice of which shall be subject to the approval of ISTC, which approval shall not be unreasonably withheld.

2.2.5. The terms of reference of the studies shall provide for the completion and the tabling of the consultant's report for each 30 month period with respect to the items specified in 2.2.1 (a), (b) and (c), within ninety (90) days of the commencement of each of the studies, following which ISTC together with KIF, shall review the consultant's report with respect to market demand, shall examine the additional capital requirements for KIF and shall identify solution(s) for funding same, consistent with the Terms and Conditions of the Aboriginal Capital Corporation Program.

Additionally, ISTC, together with KIF, shall review the evaluation of KIF's operating performance to date and, in the event that KIF's performance is found to be materially wanting compared to that of a representative group of Aboriginal Capital Corporations meeting adequate performance standards, identify with KIF a plan of action, the implementation of which by KIF, shall render it in conformity with reasonable operating performance criteria.

2.2.6. Within three (3) months of the completion of each of the two (2) feasibility studies, or as the case may be, following satisfactory implementation of the plan of action agreed to and referred to above in 2.2.5, ISTC shall submit a proposal for funding the capital needs of KIF for a 30 month period to the National Aboriginal Economic Development Board for decision on a priority basis.

The proposals will, in each case, be submitted to the Board after full efforts to reach consensus with KIF. The proposals will be based on the consultant's report

which must accurately reflect the assumptions of the study.

If KIF and ISTC cannot reach consensus on recapitalization, the matter will be referred to mediation under the Dispute Resolution Mechanism, on the understanding that the mediator chosen will have a relevant economic background.

If KIF and ISTC cannot reach consensus after mediation, ISTC will submit their recommended proposal to the National Aboriginal Economic Development Board along with KIF's position and that of the mediator.

This proposal will substantially reflect the consultant's recommendations, provided that both KIF and ISTC are satisfied that the report reflects the jointly developed terms of reference, that the data base is accurate, that the methodology is acceptable, that the cash requirement calculations are in agreement with ISTC models, these models to be made available to the consultant by ISTC prior to the commencement of the study, and that it represents a thorough assessment of market needs for the Kativik Region.

Upon confirmation by the Board that the proposal is in conformity with the objectives and the terms and conditions of the Aboriginal Capital Corporation Program, ISTC shall approve funding requirements to meet KIF's incremental capital needs for a 30 month period in the form of:

- (a) additional capital for KIF's loan fund; and/or,
- (b) if KIF so desires and policies and procedures to that effect have been developed and approved by ISTC, capital for a loan guarantee fund as referred to in 2.3.2.

The funds so approved for the first period will be the object of a new Contribution Agreement which will bind KIF to the policies set out in 2.2.1.(b) (iii) and (iv) and, for the second period, an amendment to the then existing Agreement, and will be disbursed to KIF in a manner consistent with the conditions of the Aboriginal Capital Corporation Program and the existing Contribution Agreement (February 22, 1989) between ISTC and KIF, i.e. cash advances for 6-month periods based on justification of the prior advance, demonstrated loan demand and demonstrated requirement of capital to meet such demand.

2.2.7. The contribution to the capital base of KIF will be non-repayable up to a level of \$10 million, including the portion under the current Contribution Agreement. Contributions above this amount will be subject to such ISTC repayment policy as may be in effect at that time, but, in any case, will only apply to contributions that increase KIF's capital beyond the level required for self-sufficient operation. Any repayment obligations arising hereunder shall be interest free and will be based on a percentage, to be determined, of net annual operating profits taking into account provisions for loan losses.

2.2.8. With respect to the existing Contribution Agreement between ISTC and KIF:

- (a) ISTC shall reprofile the current disbursement schedule and accelerate payments as needed to allow KIF to meet demonstrated loan demand in a manner consistent with standard contribution agreement conditions for draw-downs including evaluation of performance;
- (b) ISTC reserves the right to withhold from acceleration 20% of the capitalization budget of the current Contribution Agreement until two months after the commencement of the feasibility study.
- (c) ISTC shall apply the necessary resources to carry out follow-up and performance monitoring of KIF so that its evaluation process shall be expedited and the aforesaid reprofiling and disbursement shall be facilitated.

2.2.9. For both the first and second 30-month period and in the event that it becomes apparent that:

- (a) the consultant's report referred to in paragraph 2.2.5 will not be completed to the satisfaction of ISTC and KIF within four (4) months of the commencement of the study, or the approval of the additional capital for KIF will not be effected within six months of the commencement of the study, and
- (b) as a result of reprofiling, KIF will have drawn down all its allowable capital as provided for under the existing Contribution Agreement, and

- (c) KIF will be unable to meet the demand for direct loans at any time following six months after the beginning of the study,

ISTC shall recommend to the Minister and approve provision for such additional capital as may be required by KIF to meet demonstrated loan demand on an interim basis for a one-year period. Any initial disbursement under this provision shall not be made earlier than six months following the commencement of the study. This provision is also subject to demonstration by KIF to ISTC of satisfactory operating performance, management capability and market demand.

Any additional capital disbursed to KIF under these provisions and beyond that as provided for in the current Contribution Agreement shall be regarded as part of funding the additional capital requirements of KIF for the appropriate 30-month period referred to in paragraph 2.2.6.

### 2.3. Development of Local Business Financing Capacity

- 2.3.1. Within the context of the Inuit of Quebec efforts to encourage the development of financial service outlets in the Northern Quebec communities, ISTC shall fund through existing programs on a cost-shared basis (50-50%) with KIF studies and consultations for the development of a local and/or regional financial institution that will mobilize local and/or regional savings to assist in local business development, with one objective being to enable KIF to diversify its activities. ISTC's share of funding such costs shall be by way of a non-repayable contribution provided that the costs are in conformity with the Aboriginal Capital Corporation Program criteria. Maximum total costs of such study eligible for ISTC assistance on a cost shared basis shall not exceed \$200,000.
- 2.3.2. It is understood that ISTC cannot directly fund the capital base of a conventional financial institution. With a view, however, to reinforcing and supplementing such local or regional financial institution's commercial lending ability, ISTC will approve an application by KIF to restructure the KIF loan fund to include loan guarantee activity subject to fulfillment of the Terms and Conditions of the Aboriginal Capital Corporation Program.

- 2.3.3. Conditional on the successful implementation of such a local or regional financial institution in Kuujuaq, Quebec, ISTC shall give priority consideration to a request for funding additional studies and consultations for the development of a full network within Northern Quebec on the same terms.

3. Access to Programs Not Contracted out to KRDC:

- 3.1 It is understood that the Inuit of Quebec and Inuit proponents continue to be eligible for and have a right of access to applicable federal economic development programs and other ISTC programs not contracted out to KRDC as contemplated in paragraph 2.1.3. of this Annex.

4. Implementation:

- 4.1. ISTC, KRDC and KIF shall submit the drafts of the contractual agreement contemplated in paragraph 2.1.3, the terms of reference for the studies contemplated in paragraph 2.2.1 and the proposals and Contribution Agreement and amendment thereto respecting the funding contemplated in paragraph 2.2.6 to the JBIO and the Inuit Negotiator for their respective approval.
- 4.2. The JBIO shall oversee the implementation of Part I of this Annex upon the coming into force of this Agreement. Such implementation shall be carried out within the time frames contemplated herein.

## PART II

### INDIAN AFFAIRS AND NORTHERN DEVELOPMENT

#### 1. Definitions:

- 1.1. "CAED Strategy":  
Canadian Aboriginal Economic Development Strategy;
- 1.2. "DIAND": Department of Indian Affairs and Northern Development;
- 1.3. "JBIO": The JBNQA Implementation Negotiations Office established pursuant to Cabinet decisions, dated June 26, 1986 and March 24, 1988, for purposes of the JBNQA Implementation Negotiations, until the Office contemplated by paragraph 4.2 of this Agreement becomes operational and, thereafter, the said Office;
- 1.4. "Inuit" or "Inuit of Quebec":  
The Inuit beneficiaries as defined under Section 3 of the JBNQA;
- 1.5. "Inuit Negotiator":  
The person appointed by Makivik on March 8, 1988 to represent the Inuit of Quebec for purposes of the JBNQA Implementation Negotiations, or his successor;
- 1.6. "Ilivvik": Ilivvik Inc., a corporation duly incorporated pursuant to the laws of Canada;
- 1.7. "JBNQA": The James Bay and Northern Quebec Agreement, entered into on November 11, 1975, as amended from time to time in accordance with paragraph 2.15 thereof;
- 1.8. "Kativik Region":  
The territory in Northern Quebec under the administrative jurisdiction of the KRG;
- 1.9. "KRDC": Kativik Regional Development Council, established pursuant to subsection 23.6 of the JBNQA;
- 1.10. "KRG": Kativik Regional Government established pursuant to Section 13 of the JBNQA.

#### 2. Agreement-in-principle:

- 2.1. Program Delivery by KRDC and Ilivvik:

2.1.1. Canada agrees that DIAND undertake, together with KRDC and Iilivik, the immediate development of a contractual agreement under which KRDC and Iilivik shall respectively deliver the DIAND economic development programs currently available in the Kativik Region, as described and in accordance with the general conditions set forth below.

2.1.2. In relation to the community economic planning and development component of the CAED Strategy and in consideration for the monetary payments to be provided to KRDC by DIAND in accordance with paragraphs 2.1.5 and 2.1.6 below, KRDC shall be the Inuit community economic planning and development organization on behalf of DIAND for, inter alia, the following services:

(a) Community Economic and Employment Planning Services

- planning;
- advising;
- accessing; and,
- support services.

(b) Business Development Services

- extension and advisory services;
- planning, brokerage;
- research and analysis;
- marketing, promotion, trade fairs;
- training, seminars, workshops;
- feasibility plans;
- equity assistance;
- repayable and non-repayable contributions to third parties; and,
- support services.

2.1.3. In relation to the community economic planning and development component of the CAED Strategy and in consideration for the monetary payments to be provided to Iilivik by DIAND in accordance with paragraphs 2.1.5 and 2.1.6 below, Iilivik shall be the Inuit community economic planning and development organization on behalf of DIAND for the provision and/or financing of, inter alia, the following services:

(a) Employment Services

- counselling;
- planning;



- repayable and non-repayable contributions to third parties; and,
- support services.

2.1.4. The agreements between DIAND/KRDC and DIAND/Iilivik shall be for a term of four (4) years subject to annual evaluation of satisfactory performance measured against jointly-developed objectives and criteria as set forth in the said agreements. These agreements shall be entered into within sixty (60) days of the execution of this Agreement.

2.1.5. Funding for the first year of the agreements (fiscal year 1990-1991) for delivery of the aforesaid services shall be established in accordance with DIAND'S native population-based allocation formula used for this purpose, shall be subject to KRDC and Iilivik furnishing operating plans approved by DIAND, and shall be not less than \$1,100,000.

2.1.6. Funding for each of the subsequent three (3) years shall be normally not less than that provided in the first year and shall incorporate underlying DIAND economic development program expenditure escalations, if any, for the programs and services contemplated by these agreements, subject, however, to the following conditions:

- (a) that such funding, including escalation increases, if any, is supported by operating plans submitted respectively by KRDC and Iilivik and approved by DIAND;
- (b) that decreases may result from a decrease: either, i) in the percentage that the projected Inuit population of the Kativik Region represents of the total Inuit and Indian population for the Quebec Region; or, ii) in the percentage that the total Indian and Inuit population for the Quebec Region represents of the overall Indian and Inuit population in Canada; and,
- (c) that a decrease, other than a decrease as a result of 2.1.6 (b), may result from any decrease in the national DIAND program funding for economic development and employment flowed down to the Québec Region.

2.1.7. The agreements shall include a provision that they may, prior to expiry, be renewed for a further term, the duration to be then determined, on such terms and

conditions as the parties may then agree, subject, however, to the continuation of the underlying federal programs and services contemplated by these agreements or of the programs or services in replacement or substitution thereof.

2.1.8. The amount of \$1,100,000 for fiscal year 1990-1991 comprises funding for both the KRDC and Iilivik agreements; out of the aforesaid amount, Iilivik shall receive \$449,000, with KRDC receiving the balance thereof.

3. Access To Programs Not Devolved To KRDC Or Iilivik:

3.1. It is understood that the Inuit of Quebec and Inuit proponents in the Kativik Region continue to be eligible for and have a right of access to applicable federal economic development programs and to other DIAND programs and program elements not devolved to KRDC or Iilivik by way of the agreements referred to in Part II of this Annex.

4. Implementation:

4.1. KRDC, Iilivik and DIAND shall submit the drafts of the contractual agreements contemplated in paragraph 2.1.4 to the Inuit Negotiator and the JBIO for their respective approvals.

4.2. The JBIO shall oversee the implementation of Part II of this Annex. Such implementation shall be carried out within the time frames mentioned herein.

UMIUJAJQ AIRPORT

1. Definitions:

- 1.1. "JBIO": The JBNQA Implementation Negotiations Office established pursuant to Cabinet decisions, dated June 26, 1986 and March 24, 1988, for purposes of the JBNQA Implementation Negotiations, until the Office contemplated by paragraph 4.2 of this Agreement becomes operational and, thereafter, the said Office.

2. Agreement-in-principle:

- 2.1. The Government of Canada agrees to construct in fiscal year 1992-93 a new airport in Umiujaq in accordance with Paragraph 26 of the Canada-Quebec Airport Program Agreement (dated September 27, 1983). Canada shall pay its share of the cost as stated in the Canada-Quebec Airport Program Agreement (September 27, 1983).

3. Implementation:

- 3.1. The JBIO shall oversee the implementation of the agreement to construct the Umiujaq airport.

## DISPUTE RESOLUTION MECHANISM (DRM)

1. Definitions:

- 1.1. "Interested Party":  
Any person, corporation or government that the Parties to the Dispute Resolution Mechanism mutually agree to recognize as an Interested Party;
- 1.2. "Inuit of Quebec":  
The Inuit beneficiaries as defined under Section 3 of the James Bay and Northern Quebec Agreement;
- 1.3. "JBNQA":  
The James Bay and Northern Quebec Agreement, entered into on November 11, 1975, as amended from time to time in accordance with paragraph 2.15 thereof;
- 1.4. "Makivik":  
Makivik Corporation, the corporation established by the Act to establish the Makivik Corporation (R.S.Q., ch. S-18.1), and constituted as the Inuit Native Party for purposes of the JBNQA pursuant to paragraph 1.11 thereof;
- 1.5. "Party":
- (i) Her Majesty the Queen in Right of Canada (as represented by the Minister(s) responsible for the matter at issue);
  - (ii) The Inuit of Quebec (as represented by Makivik, which in turn may be represented by any one or more of the following: Kativik Regional Government, Kativik School Board, Kativik Regional Development Council, Northern Village Corporations, Inuit Landholding Corporations, Kativik Health and Social Services Council, Avataq Cultural Institute, and Kativik Investment Fund);
  - (iii) Provided it agrees to participate in the Dispute Resolution Mechanism set out herein and once it has notified the two other Parties of said agreement to participate, the Government of Quebec (as represented by the Minister(s) responsible for the matter at issue);

1.6. "Parties to the Dispute Resolution Mechanism":

Any combination of Parties, as defined exhaustively under paragraph 1.5 above, which participate in the Dispute Resolution Mechanism at the level of either consultations, mediation or arbitration. The definition therefore includes "Parties to the consultations", "Parties to the mediation", and "Parties to the arbitration" as the case may be, but does not include "Interested Party" as defined under paragraph 1.2 above.

- 1.6.1. No other person, corporation or government may be considered a Party to the Dispute Resolution Mechanism set out herein.

2. Dispute Resolution Mechanism Issues:

- 2.1. The Parties may resort to the Dispute Resolution Mechanism set out herein to resolve any dispute arising from or relating to the interpretation, administration and implementation of the JBNQA and this Agreement.

3. Consultations:

- 3.1. Any Party may request bilateral or trilateral consultations with the other Party or Parties regarding any dispute referred to in Section 2 above and thereby makes such other Party or Parties "Parties to the consultations".
- 3.2. The request for consultations shall be made in writing by the requesting Party and shall be sent to all other Parties to the Dispute Resolution Mechanism.
- 3.3. Where bilateral consultations between any two Parties have been requested, the remaining Party may intervene and participate in the consultations and thereafter in the Dispute Resolution Mechanism as a Party thereto, provided one of the two other Parties agrees to such intervention. If the remaining Party does not or is not allowed to intervene in the consultations and thereafter in the Dispute Resolution Mechanism, nothing whatsoever that may result from the other Parties resorting to said mechanism to resolve bilateral matters shall be deemed or used by said other Parties to affect in any way whatsoever any rights or obligations that the remaining Party may have under the JBNQA or this Agreement.

- 3.4. The Parties to the consultations may agree to invite or allow Interested Parties to participate in the consultations. The Parties to the consultations shall decide on the rights and obligations of such Interested Parties with respect to the participation of said Interested Parties in the consultation process.
- 3.5. Each Party to the consultations shall bear its own costs.
- 3.6. The Parties to the consultations shall make every attempt to arrive at a mutually satisfactory resolution of any matter referred to in paragraph 3.1 above.

Should the Parties to the consultations fail to resolve any such matter within 60 days of the request referred to in paragraph 3.2 above, or such other period of time as determined by the Parties to the consultations, any such Party may refer the dispute to mediation by single mediator and/or Panel of Experts, as the case may be, in accordance with the provisions of paragraphs 4.1 to 4.10 below, and thereby makes the other Party or Parties to the consultations "Parties to the mediation", or, if the Parties to the consultations agree, to arbitration in accordance with the provisions of paragraphs 5.1 to 5.6 below.

4. Mediation:

- 4.1. The Parties to the mediation may agree to invite or allow Interested Parties to participate in the mediation. The Parties to the mediation shall decide on the rights and obligations of such Interested Parties with respect to the participation of said Interested Parties in the mediation process.
- 4.2. Within 10 days after a dispute has been referred to mediation under the provisions of paragraph 3.6 above, the Parties to the mediation may agree to refer the dispute referred to in paragraph 3.6 above to a single mediator, provided said single mediator is approved by all Parties to the mediation and is appointed within 30 days of said referral to mediation.
- 4.3. The mediator's terms of reference, procedure and jurisdiction shall be determined by the Parties to the mediation, subject to the following:
  - 4.3.1. Unless the Parties to the mediation otherwise agree, the single mediator shall have 60 days after his appointment to help the Parties to the mediation to reach a mutually satisfactory solution.
  - 4.3.2. Unless the Parties to the mediation otherwise agree, in the event that the Parties to the mediation fail to

reach a mutually satisfactory solution within the period of time allocated to the single mediator, said single mediator shall, within 15 days after the expiration of said period of time, write a non-binding report with his conclusions and recommendations and submit that report to the Parties to the mediation.

- 4.4. From the moment the Parties to the mediation fail to agree to resort to a single mediator, or if they fail to appoint a single mediator within the period of time referred to in paragraph 4.2 above, or if they fail to reach a mutually satisfactory solution within the period of time allocated to the single mediator, any such Party may refer the unresolved dispute to a Panel of Experts in accordance with the provisions of paragraphs 4.5 to 4.10 below or, if the Parties to the mediation agree, to arbitration in accordance with the provisions of paragraphs 5.1 to 5.6 below.
- 4.5. A Panel of Experts shall act with respect to any dispute referred to mediation under the provisions of paragraph 3.6 above when there is no agreement under the provisions of paragraph 4.2 above, and with respect to any unresolved dispute referred to it under the provisions of paragraph 4.4 above.
- 4.6. Within 15 days of a referral to a Panel of Experts under the provisions of paragraphs 4.4 and 4.5 above, each Party to the mediation, in consultation with the other Party or Parties, shall have the option to choose either one or two expert(s) for the Panel. The experts so chosen shall decide unanimously who shall chair the Panel; they may unanimously choose an additional expert for that purpose.
- 4.7. Members of the Panel of Experts shall be chosen strictly on the basis of objectivity, reliability and sound judgment and, where appropriate, expertise in the particular matter under consideration.

While such Experts may include beneficiaries of the JBNQA, Experts shall not be affiliated with or take instructions from any Party.

- 4.8. The Panel of Experts' terms of reference, procedure and jurisdiction shall be determined by the Parties to the mediation, subject to the following:
  - 4.8.1. Unless the Parties to the mediation otherwise agree, the procedure shall assure a right to at least one oral hearing before the Panel as well as the opportunity to provide written submissions and rebuttal arguments.
  - 4.8.2. Unless the Parties to the mediation otherwise agree, the Panel shall, within three months after the hearing, present to the Parties to the mediation a

written report containing findings of fact, if any, the determination of the issue or issues, and recommendations, if any, for the resolution of the dispute. The Panel's report shall be based on the provisions of the JBNQA or this Agreement and on the arguments and submissions of the Parties.

4.8.3. Unless the Parties to the mediation otherwise agree, the proceedings of the Panel shall not be public and the report referred to in subparagraph 4.8.2 above shall be confidential and shall not be binding upon the Parties to the mediation. Upon submitting their report to the Parties to the mediation, the experts shall be functus officio; they shall preserve the confidentiality of the Panel's proceedings and shall not publicly discuss their report.

4.9. Each Party to the mediation shall bear its own costs and an equal share of the agreed to other costs of the mediation, including the remuneration and expenses of the mediator and/or Panel of Experts.

4.10. The Parties to the mediation shall make every attempt to arrive at a mutually satisfactory resolution of any dispute referred to in paragraphs 3.6, 4.2, 4.4 and 4.5 above.

Should the Parties to the mediation fail to resolve any such dispute within 60 days of the report referred to in subparagraph 4.8.2 above or within such other period of time as determined by the Parties under the provisions of paragraph 4.8 above, the Parties to the mediation may agree to refer the dispute to arbitration in accordance with the provisions of paragraphs 5.1 to 5.6 below.

## 5. Arbitration:

5.1. Within 30 days of the decision to refer a dispute to arbitration under the provisions of paragraphs 3.6, 4.4 or 4.10 above, an Arbitration Board shall be established to resolve said dispute.

5.2. Unless otherwise agreed by the Parties to the arbitration, the Board shall consist of three arbitrators, chosen as follows:

5.2.1. Where only two Parties participate in the arbitration, each Party shall appoint an arbitrator to the Board. The two arbitrators shall choose a third arbitrator who shall chair the Board.

5.2.2. Where the three Parties participate in the arbitration, each Party shall appoint an arbitrator to



the Board. The arbitrators appointed shall designate, amongst themselves, the Chairman.

- 5.3. The Arbitration Board's terms of reference, procedure and jurisdiction shall be determined by the Parties to the arbitration, subject to the following:
- 5.3.1. Unless the Parties to the arbitration otherwise agree, the procedure shall assure a right to at least one oral hearing before the Board, said hearing to be held within 30 days of the Board being fully constituted under the provisions of paragraph 5.2 above, as well as the opportunity to provide written submissions and rebuttal arguments.
  - 5.3.2. Unless the Parties to the arbitration otherwise agree, the Board shall have jurisdiction to decide whether any Interested Party shall be invited or allowed to participate in the arbitration, and if so what the rights and obligations of any such Interested Party shall be with respect to the participation of said Interested Party in the arbitration process.
  - 5.3.3. Unless the Parties to the arbitration otherwise agree, the Board shall render a decision within 3 months after the hearing or within such other period of time agreed to by the Parties to the arbitration. The Board's decision shall be based on the provisions of the JBNQA or this Agreement and on the arguments and submissions of the Parties. The decision shall be in writing and shall state the reasons on which it is based.
  - 5.3.4. Unless the Parties to the arbitration otherwise agree, the Board's decision shall be final and binding on all Parties to the arbitration. However, any error of law and/or excess of jurisdiction on the part of the Board shall be subject to the superintending and reforming powers of the Courts.
  - 5.3.5. Unless the Parties to the arbitration otherwise agree, the proceedings as well as the report of the Board shall be public.
- 5.4. Each Party shall provide for the remuneration and expenses of the arbitrator appointed by it and agreed to other costs of the arbitration. Where a third arbitrator is appointed under the provisions of paragraph 5.2.1, the two Parties to the arbitration shall provide equally for the remuneration and expenses of said arbitrator.

- 5.5. Notwithstanding the provisions of paragraph 5.4 above, the Board shall have jurisdiction to make an award regarding the costs of the arbitration, including the remuneration and expenses of the arbitrators.

The Board may direct who shall pay the costs of the arbitration or any part thereof, and in what manner. If the Board makes no decision as to costs, each Party to the arbitration shall bear its own costs and an equal share of the agreed to other costs of the arbitration; Interested Parties shall bear their own costs, unless the Board decides otherwise.

- 5.6. Except to the extent inconsistent with the provisions of paragraphs 5.1 to 5.5 above, the arbitration shall be governed by the provisions of Book VII of the Code of Civil Procedure of Quebec (Arbitrations: Arts. 940 to 951.2).

6. General Provisions:

- 6.1. Unless otherwise specified, the decisions of the Parties to the Dispute Resolution Mechanism must be unanimous.
- 6.2. The Parties to the Dispute Resolution Mechanism may agree to abridge or extend any delays or otherwise modify the application of any of the provisions set out herein.
- 6.3. The Party that did not or could not intervene at the consultations level under the provisions of paragraph 3.3 above may still intervene at any other stage of the Dispute Resolution Mechanism, provided the two other Parties agree to such intervention.