SECTION 15

Hunting, Fishing and Trapping

15.1 Definitions

For the purposes of this section the following words and phrases shall be defined as follows:

15.1.1 "automatic weapon" means any firearm that is capable of firing bullets in rapid succession during one pressure of the trigger;

15.1.2 "bag limit" means the maximum number established by regulation of individuals of a species or a group of species that a hunter may take legally;

15.1.3 "conservation" means the pursuit of the optimum natural productivity of all living resources and the protection of the ecological systems of the Territory so as to protect endangered species and to ensure primarily the continuance of the traditional pursuits of the Native people, and secondarily the satisfaction of the needs of non-Native people for sport hunting and fishing;

15.1.4 "community use" means the use by the Naskapis of all products of harvesting in conformity with the provisions of the present section; or in the event that the Naskapis relocate to Block Matemace, in accordance with the provisions of section 20, community use means the use by the Naskapis of all products of harvesting consistent with present practice between Native communities in the Territory of members of such a Native community or communities, including the gift, exchange and sale of such products subject to the restrictions set forth in this section;

15.1.5 "Coordinating Committee" means the body contemplated by Section 24 of the James Bay and Northern Québec Agreement, as amended from time to time;

15.1.6 "ecological reserve" means a territory set aside by law or by regulation to preserve such territory in its natural state, to reserve such territory for scientific research and, if need be, for education or, to safeguard animal and plant species threatened with disappearance or extinction;

15.1.7 "family" means the extended family comprising persons related or allied by blood, or by legal or Naskapi customary marriage or adoption;

15.1.8 "fauna" means all mammals, fish and birds;

15.1.9 "harvesting" means hunting, fishing and trapping by the Native people for the purpose of the capture or killing of individuals of any species of wild fauna, except species from time to time completely protected to ensure the continued existence of that species or a population thereof, for personal and community purposes or for commercial purposes related to the fur trade and commercial fisheries;

15.1.10 "kill" means the number of individuals of a given species or population thereof, killed during a given period or permitted to be killed during a given time period;

15.1.11 "outfitter" means a person who carries on an operation which provides the public with lodging and the opportunity to sport hunt and sport fish or rents equipment or small craft or provides other services for sport hunting and sport fishing purposes within the area specified in the permit, license or other authorization given to such person for such purposes;

15.1.12 "outfitting operation" means the establishment and its dependent buildings, including outposts and all equipment and accessories related thereto, and all sport hunting and sport fishing gear, equipment and small craft used by an outfitter in connection with such operation;

15.1.13 "personal use" means the use by the Naskapis for personal purposes of all products of harvesting including the gift, exchange and sale of all such products within the family;

15.1.14 "possession limit" means the maximum quantity of individuals of a species or a group of species that a person is entitled to have in his possession during a specified period of time within a specified area;

15.1.15 "reserve" means an area set aside by law or by regulation for conservation or other purposes specified in the law or regulation establishing such a reserve;

15.1.16 "responsible Minister" means the minister of Québec or Canada charged with responsibility with respect to a subject matter falling within the jurisdiction of the government of which he is a member;

15.1.17 "settlement" means a permanent collectivity of habitations, buildings and facilities continuously inhabited and used, including the immediately contiguous land reasonably required to use and enjoy such habitations, buildings and facilities;

15.1.18 "sport fishing" means fishing by non-Natives by the use only of rod and line (angling) and only for reasons of sport;

15.1.19 "sport hunting" means hunting by non-Natives by the use only of firearms or bow and arrow and only for the specific purpose of killing game for reasons of sport;

15.1.20 "Territory" means the area defined in paragraph 15.12.1;

15.1.21 "Naskapi Sector" means the area defined in paragraph 15.12.2;

15.1.22 "wildlife" means all populations of wild fauna in the Territory;

15.1.23 "wildlife sanctuary" means an area of land with a particular kind of environment set aside by law or by regulation for the temporary or permanent protection of certain species of animals;

15.1.24 "Naskapi area of primary interest" means that area defined in paragraph 24.13.3A of the James Bay and Northern Québec Agreement, as amended from time to time.

15.2 Conservation

15.2.1 There exists with respect to the Territory a single Hunting, Fishing and Trapping Regime established by and in accordance with Section 24 of the James Bay and Northern Québec Agreement, as amended from time to time, the modalities of which appear in the said Section 24 and in the present section. This Hunting, Fishing and Trapping Regime is subject to the principle of conservation.

15.2.2 For the purpose of the Hunting, Fishing and Trapping Regime, land in the Territory shall be classified as set forth in paragraph 24.3.32 of the James Bay and Northern Québec Agreement, as amended from time to time.

15.3 Harvesting

15.3.1 Every Naskapi shall have the right to hunt, fish and trap, including the right to capture or kill individuals of any species of wild fauna (hereinafter referred to as the "right to harvest"), in accordance with the provisions of the Hunting, Fishing and Trapping Regime.

15.3.2 Every Naskapi shall have the right to harvest any species of wild fauna except species requiring complete protection from time to time within the Territory to ensure the continued existence of such species or a population thereof.

15.3.3 The Naskapis shall enjoy the sole and exclusive exercise of the right to harvest in the Naskapi area of primary interest in accordance with the provisions of this section. The exercise of the right to harvest shall be subject to the principle of conservation and to such other express provisions as are specified elsewhere in the present Agreement, and in the James Bay and Northern Québec Agreement, as amended from time to time.

Notwithstanding the foregoing, the Naskapis of Québec, the James Bay Crees and the Inuit of Québec recognize that the right to harvest may also be granted in the Naskapi Sector to persons who are non-signatories to the present Agreement provided that:

15.3.3.1) the right to harvest may be granted only to those who justify to the satisfaction of Québec any claim to a native right in the said Sector that they might have had as of the date of the signature of the James Bay and Northern Québec Agreement;

15.3.3.2) the right to harvest shall not be granted in Category I-N lands, in Category II-N lands or in the area of common interest for the Inuit and the Naskapis as defined in paragraph 24.13.4A of the James Bay and Northern Québec Agreement, as amended from time to time;

15.3.3.3) at least thirty (30) days prior to entering into an agreement respecting the granting of the aforesaid right to harvest, Québec shall inform the Cree Native party, the Inuit Native party, as well as the Naskapi Native party until the creation of the Naskapi local authority provided for in section 8 and thereafter the said Naskapi local authority, that such right may be granted.

15.3.4 The Naskapis of Québec may exercise the right to harvest in the Naskapi Sector in accordance with the provisions of the Hunting, Fishing and Trapping Regime where this activity is physically possible and does not conflict with other physical activity or public safety. Acts by parties to the present Agreement or by third parties to limit access to an area within the Naskapi Sector for reasons other than those specifically enumerated in this section shall not ipso facto exclude that area from the right to harvest.

15.3.5

15.3.5.1) The words "conflict with other physical activity" shall mean actual physical conflicts or physical interference but shall not include conflicts or interference of any other nature which may be perceived, anticipated or declared by any means whatsoever. Without limiting the generality of the foregoing, the creation or existence of parks, reserves, wilderness areas, ecological reserves and the grant or existence of concessions or rights with respect to forestry or mining shall not in

themselves be considered conflicting physical activities and the Naskapis of Québec shall continue to have the right to harvest in such areas.

15.3.5.2) The creation or existence of wildlife sanctuaries shall operate to exclude all or part of such sanctuaries from the right to harvest but only with respect to those species for whose protection such sanctuaries are created and for such periods of time and/or season when such protection is required.

15.3.6

15.3.6.1) The right to harvest shall not be exercised in lands situated within existing or future non-Native settlements within the Naskapi Sector.

15.3.6.2) The annexation of land by a municipality or any other public body shall not in itself exclude such areas from the harvesting rights of the Naskapis of Québec as long as such lands remain vacant.

15.3.7

15.3.7.1) In areas specified in existing leases or permits as being reserved for the exclusive use of an outfitter and in areas presently covered by fish and game leases, the right to harvest, except for the right to trap, shall not be exercised during the operating season of such outfitters, lessees and permit holders.

15.3.7.2) Subject to subsection 15.9, the rights of present outfitters and present holders of fish and game leases shall be respected for the duration of the current term of their present leases or permits. At the expiration of the current terms of such leases or permits, the terms shall be reviewed by the Coordinating Committee to minimize conflicts with harvesting activity. This provision shall be without prejudice to any agreement between an outfitter, lessee or permit holder and the Naskapi Native party.

15.3.8 Restrictions on the right to harvest for reasons of public safety shall apply primarily to the discharge of firearms, to the setting of large traps or nets in certain areas, and to other dangerous activities having due regard for others lawfully in the vicinity. Any such restrictions shall not in themselves preclude other harvesting activities.

15.3.9 Subject to conservation rules established pursuant to the Hunting, Fishing and Trapping Regime, to any restrictions in the Migratory Birds Convention Act and its regulations, to the undertakings of Canada respecting the Migratory Birds Convention referred to in subsection 15.14 and to any other exceptions specified in this section, the Naskapis of Québec shall have the right to harvest at all times of the year.

15.3.10

15.3.10.1) Subject to the principle of conservation, the right to harvest applies to harvesting activities of the Naskapis of Québec exercised in conformity with the provisions of the Hunting, Fishing and Trapping Regime.

15.3.10.2) In the case of migratory birds, personal use shall be limited to the gift or exchange of all products of harvesting within the extended family, subject to the undertakings of Canada contained in subsection 15.14.

15.3.10.3) Community use shall include the gift, exchange and sale of all products of harvesting among Naskapi residents of the Naskapi Sector, and shall not include the gift, exchange and sale of all products of harvesting between the Naskapi residents of the Naskapi Sector and Naskapis residing outside of said Sector. In the case of migratory birds, community use shall be limited to the gift or exchange of meat and eider-down among Naskapi residents of the Naskapi Sector, subject to the undertakings of Canada contained in subsection 15.14. Community use shall not include the exchange or sale of fish or meat to persons other than Naskapis, except in the case of commercial fisheries.

15.3.10.4) In the event that the Naskapis relocate to Block Matemace, in accordance with the provisions of Section 20, community use shall include the gift, exchange and sale of all products of harvesting consistent with present practice between Native communities in the Territory and/or members of such a Native community or communities. For greater clarity, community use shall not exclude the gift, exchange and sale of all products of harvesting between Native communities in the Territory and members of such a Native community or communities not presently conducting such activity. For Native people living in non-Native settlements such as Schefferville, Matagami, Chibougamau, etc., community use shall be restricted to the gift, exchange and sale of all products of harvesting consistent with present practice between such Native people and shall not include gift, exchange and sale with Native communities. In the case of migratory birds, community use shall be limited to the gift or exchange of meat and eider-down consistent with present practice between Native communities in the Territory and/or members of such a Native community or communities, subject to the undertakings of Canada contained in sub-section 15.14. Community use shall not include the exchange or sale of fish and meat to non-Natives except in the case of commercial fisheries.

15.3.11 The right to harvest shall include the right to possess and use all equipment reasonably needed to exercise that right with the exception of the following: explosives, poisons, firearms connected to traps and remote controls, automatic weapons, tracer bullets, non-expanding ball ammunition, air-guns, and other similar equipment, as may from time to time be prohibited by regulations passed upon recommendation by the Coordinating Committee, the whole subject to applicable laws and regulations of general application concerning weapon control, where such control is directed to public security and not to harvesting activity. Nevertheless, Québec regulations obliging persons under the age of sixteen (16) to be accompanied by an adult when hunting or fishing shall not apply to Naskapis of Québec above the age of reason.

15.3.12 The right to harvest shall include the right to travel and establish such camps as are necessary to exercise that right, in accordance with the terms and conditions of the present Agreement.

15.3.13 The right to harvest shall include the use of present and traditional methods of harvesting except where such methods affect public safety.

15.3.14 The right to harvest shall include the right to possess and transport within the Territory the products of harvesting activity.

15.3.15 The Naskapis shall have the right to trade in and conduct commerce in all the by-products of their lawful harvesting activities.

15.3.16 Subject to the restrictions and controls with respect to non-Native hunting and fishing provided for in this section, the right to harvest shall not be construed to prevent or limit access to the Naskapi Sector by non-Natives in accordance with the provisions found elsewhere in the present Agreement.

15.3.17 The exercise of the right to harvest shall not be subject to the obtaining of permits, licenses, or other authorization, save where expressly stipulated otherwise in this section. Where, by exception, for the purposes of management, leases, permits, licenses or other authorizations are required by the responsible minister or required on the recommendation of the Coordinating Committee, the Naskapis shall have the right to receive such leases, permits, licenses or other authorizations at a nominal fee through the Naskapi local authority.

15.3.18 Subject to the provisions of the Hunting, Fishing and Trapping Regime, the Naskapis of Québec shall have the exclusive right to trap in the Naskapi area of primary interest as part of their right to harvest. This right to trap shall include the right to trap for all commercial purposes.

15.3.18A This exclusive right to trap by the Naskapis shall be without prejudice to the trapping rights, if any, exercised by Indians who are not party to the present Agreement on the beaver reserves allocated to them prior to November 11, 1975, except in the Category I-N lands and in the Category II-N lands where the exclusive right to trap by the Naskapis shall prevail.

15.3.19 If the Naskapis have not exercised their right to trap within a part of the Naskapi Sector for an extended period, and where trapping activity in such part of the Naskapi Sector is necessary for the proper management of a species, Québec may, only upon the advice of the Coordinating Committee and after giving reasonable notice to the Naskapi Native party through the Coordinating Committee, permit persons other than Naskapis to exercise the necessary trapping activity in such part of the Naskapi Sector, when the Naskapi Native party fails to do so. Such permission shall be subject to an agreement between the Naskapi Native party and Québec; failing such agreement the responsible Minister may, only upon recommendation of the Coordinating Committee, permit persons other than Naskapis to exercise such activity, and in such case the minister shall establish the terms and conditions upon which such activities shall be exercised provided such activity shall not be permitted for a period exceeding four (4) years. At the expiration of said period, the Naskapis shall have the right to resume the exercise of their right to trap on that portion of the Naskapi Sector, failing which the foregoing procedure shall apply.

15.3.20 Within Category I-N lands and Category II-N lands, the Naskapis shall have the exclusive right to establish and operate commercial fisheries. Within Category III lands in the Naskapi area of primary interest, the Naskapis shall have the exclusive right to establish and operate commercial fisheries related to the species of fish enumerated in the list of exclusive species referred to in paragraph 24.7.1 of the James Bay and Northern Québec Agreement, as said list may be modified from time to time in accordance with the provisions of the James Bay and Northern Québec Agreement, as amended from time to time. Within the area of common interest for the Naskapis and the Inuit referred to in paragraph 24.13.4A of Section 24 of the James Bay and Northern Québec Agreement, as amended from time to time, both the Naskapis and the Inuit shall have the said right which the Naskapis have in Category III lands in the Naskapi area of primary interest.

15.3.21 All applications for commercial fisheries permits within Category I-N lands, Category II-N lands or Category III lands shall be submitted to the Coordinating Committee and shall be assessed by the Coordinating Committee upon the basis of the possible and probable impact of such proposed fisheries operations upon harvesting and recreational fishing. The Coordinating Committee shall make recommendations to the responsible minister with respect to such applications on the basis of its assessment. No commercial fisheries shall be permitted within Category I-N lands and Category II-N lands without the consent of the Naskapi local authority.

15.3.22 A minimum of control or regulations shall be applied to the Naskapis, which shall mean inter alia that:

15.3.22.1) when the Coordinating Committee or the responsible government of Canada or Québec decides that control of harvesting activities by Naskapis is necessary, the Coordinating Committee or the responsible government of Canada or Québec shall first formulate guidelines and/or advisory programs with respect to the control of such activity. Such guidelines or advisory programs shall be encouraged and promoted by the Naskapi local authority, under reserve of the right of the responsible Government of Canada or Québec to impose such controls in the event that such guidelines and/or advisory programs do not prove to be effective;

15.3.22.2) when the Coordinating Committee or the responsible government of Canada or Québec decides that regulations are necessary, the responsible government of Canada or Québec shall make regulations with a minimum of impact on the Naskapis and harvesting activities by Naskapis by taking into account the impact on such factors as local Naskapi food production, the accessibility of harvestable resources for the Naskapis, the efficiency of harvesting, the cost of harvesting and Naskapi cash incomes;

15.3.22.3) in general, the control of activities contemplated by the Hunting, Fishing and Trapping Regime shall be less restrictive for Native people than for non-Natives.

15.3.23 Neither the responsible Government of Canada or Québec nor the Coordinating Committee shall change or affect the Hunting, Fishing and Trapping Regime in such a way as to infringe upon the rights of the Naskapis established by the said regime. Without limiting the generality of the foregoing, this provision shall apply to the responsible ministers of Canada and Québec, the departments of Canada and Québec involved and the individuals, bodies or agencies administering the Hunting, Fishing and Trapping Regime.

15.3A Hunting for commercial purposes, keeping in captivity and husbandry

15.3A.1 Within the Naskapi area of primary interest, until November 10, 2029, only the Naskapis shall have, in accordance with the provisions of this subsection, the right to hunt for commercial purposes any species of wildlife.

Such exclusive right may be exercised in respect of the species listed at Schedule 7 to Section 24 of the James Bay and Northern Québec Agreement, as amended from time to time.

Compl. A. no. 1, sch. 1, s. 1
Compl. A. no. 6, s. 1

15.3A.2 Within the Naskapi area of primary interest, until November 10, 2029, only the Naskapis shall have the right, in accordance with the provisions of this subsection, of keeping in captivity and husbandry of the species of wildlife listed at Schedule 8 to Section 24 of the James Bay and Northern Québec Agreement, as amended from time to time.

Compl. A. no. 1, sch. 1, s. 1
Compl. A. no. 6, s. 2

15.3A.3 Within the area of common interest for the Inuit and the Naskapis referred to in paragraph 24.13.4A of Section 24 of the James Bay and Northern Québec Agreement, as amended from time to time, both the Naskapis and the Inuit shall have the rights provided for the Naskapis in paragraphs 15.3A.1 and 15.3A.2.

Compl. A. no. 1, sch. 1, s. 1

15.3A.4 Subject to the authorization of the responsible Naskapi authorities designated at paragraph 15.3A.8, the exercise of the right referred to in paragraph 15.3A.1 or 15.3A.2 may be shared with persons other than Naskapis.

Compl. A. no. 1, sch. 1, s. 1

15.3A.5 The exercise of the right to hunt for commercial purposes and of the right of keeping in captivity and husbandry of the species listed at Schedules 7 or 8 of Section 24 of the James Bay and Northern Québec Agreement, as amended from time to time, shall be subject to the obtaining of a permit, licence or other authorization issued by the responsible Québec Minister.

Any such permit, licence or other authorization shall be issued with conditions established by the Minister for a period not exceeding twelve (12) months and, in the case of the Naskapis, at a nominal fee.

Compl. A. no. 1, sch. 1, s. 1

15.3A.6 There shall be no hunting for commercial purposes in respect of a population of a species of wildlife permitted anywhere in the Territory in a given year unless the harvesting needs of the Naskapis of Québec above their interim guaranteed levels of harvesting or the guaranteed levels of harvesting that shall be established, as well as the needs of persons other than Naskapis of Québec for sport hunting in respect of such population, may be satisfied.

Compl. A. no. 1, sch. 1, s. 1

15.3A.7 Every application for a permit, licence or other authorization for hunting for commercial purposes or for keeping in captivity and husbandry of wildlife within Categories I-N, II-N or III lands in the Naskapi Sector shall be submitted to the responsible Minister of Québec, who shall transmit a copy to the Coordinating Committee indicating the conditions, if any, that he proposes to establish.

The Coordinating Committee shall assess an application principally upon the basis of the possible or probable impact of such proposed hunting for commercial purposes, keeping in captivity or husbandry upon the conservation of a species of wildlife or population of such species, upon harvesting and upon sport hunting.

The Coordinating Committee shall make recommendations to the responsible Minister with respect to such applications on the basis of its assessment.

Compl. A. no. 1, sch. 1, s. 1

15.3A.8 In the Naskapi Sector, the responsible Québec Minister may not issue any permit, licence or other authorization for commercial hunting, keeping in captivity or husbandry of wildlife without the affirmative notice in writing of

(i) the Naskapi band in the case of Category IA-N lands;

(ii) the Corporation of the Naskapi Village of Schefferville, in the case of Category IB-B lands, Category II-N lands and Category III lands within the Naskapi area of primary interest;

(iii) the Corporation of the Naskapi Village of Schefferville and Makivik Corporation, in the case of Category III lands within the area of common interest for the Inuit and the Naskapis referred to in paragraph 24.13.4A of Section 24 of the James Bay and Northern Québec Agreement, as amended from time to time.

In Category IA-N lands, the Naskapi band may establish by by-law conditions for commercial hunting, keeping in captivity or husbandry which are more restrictive than those established by the responsible Québec Minister. The same by-law powers may be exercised by the Corporation of the Naskapi Village of Schefferville in the lands referred to in subparagraph (ii).

In the lands referred to in subparagraph (iii), such by-law powers may be exercised by the Corporation of the Naskapi Village of Schefferville and the Kativik Regional Government; however, no such by-law shall have force unless adopted by each of the Corporation of the Naskapi Village of Schefferville and the Kativik Regional Government.

Compl. A. no. 1, sch. 1, s. 1

15.3A.9 All by-laws proposed pursuant to the second and third paragraphs of paragraph 15.3A.8 shall be submitted prior to adoption to the Coordinating Committee for its advice. All such by-laws shall come into force on the date that a certified copy thereof is submitted to the responsible Québec Minister who shall have the right within 90 days from reception to disallow such by-law.

This paragraph shall not be interpreted or invoked as a denial or a recognition of rights.

Compl. A. no. 1, sch. 1, s. 1

15.3A.10 The grant or existence of concessions or rights with respect to resources in the Territory shall not in themselves be considered incompatible with hunting for commercial purposes, keeping in captivity or husbandry of wildlife by the Naskapis; likewise, hunting for commercial purposes, keeping in captivity or husbandry of wildlife by the Naskapis shall not in themselves be considered incompatible with the grant or existence of concessions or rights with respect to resources in the Territory.

Compl. A. no. 1, sch. 1, s. 1

Compl. A. no. 1, sch. 1, s. 1

15.4 Coordinating Committee

15.4.1 The Coordinating Committee is required to review, manage, and in certain cases, supervise and regulate the Hunting, Fishing and Trapping Regime.

15.4.2 The Naskapi Native party shall furnish to the Coordinating Committee all information in its possession relevant to the functions of the Coordinating Committee.

15.4.3 The Coordinating Committee in its operation shall, inter alia, recognize and give due consideration to the following:

15.4.3.1) the exclusive trapping rights of the Naskapis of Québec in accordance with the provisions of this section;

15.4.3.2) the right to harvest in accordance with subsection 15.3;

15.4.3.3) the principle of conservation as defined in paragraph 15.1.3;

15.4.3.4) the principle that a minimum of control or regulations shall be applied to the Naskapis of Québec in accordance with paragraph 15.3.22;

15.4.3.5) the priority of Naskapi harvesting as defined in subsection 15.6.

15.4.4 The Coordinating Committee may submit recommendations to the responsible Minister of Québec or Canada, who shall have discretion to act upon such recommendations, concerning levels of allocation of Naskapi and non-Naskapi kills over and above guaranteed levels of harvesting established pursuant to the present section, taking into account paragraph 24.4.27 of the James Bay and Northern Québec Agreement, as amended from time to time.

15.5 Powers of authorities and governments

15.5.1 In the Category I-N lands and Category II-N lands, matters relating primarily to the protection of the wildlife resources rather than harvesting activity and hunting and fishing by non-Natives shall be solely the jurisdiction of the responsible government of Québec or Canada. Such matters of sole jurisdiction shall include, inter alia, the establishment of general quotas for the Territory, the representation of the interests of the Territory at international and inter-governmental negotiations relating to wildlife management, the regulation and management of wildlife insofar as this concerns the health of wildlife populations, the determination and protection of species requiring complete protection as referred to in paragraph 15.3.2 and the regulation and conducting of research projects related to wildlife resources.

15.5.2 In the Category I-N lands and Category II-N lands, the responsible governments of Québec and Canada shall exercise their powers with respect to matters referred to in paragraph 15.5.1 in the same manner as those powers are exercised with respect to Category III lands, namely they shall exercise those powers only upon the advice of or after consulting with the Coordinating Committee as the preferential and exclusive spokesman empowered to formulate procedures, recommendations, positions and views respecting these matters.

15.5.3 Notwithstanding the provisions of paragraphs 15.5.1 and 15.5.2, with respect to the matters referred to therein, the Naskapi local authority shall have the power to pass by-laws affecting

Category I-N lands for Native people and for non-Natives permitted to hunt and fish thereon that are more restrictive than those regulations passed by Québec or Canada, as the case may be. Furthermore, for the matters contemplated in said paragraphs 15.5.1 and 15.5.2 the regional government north of the 55th parallel of latitude shall have the power to pass by-laws, affecting Category II-N lands, that are more restrictive than those regulations passed by Québec or Canada, as the case may be, for Native people and for non-Natives permitted to hunt and fish thereon but only in as much as it will previously have received a recommendation from the Naskapi local authority for Category IB-N lands.

15.5.4 Subject to the power of the responsible government of Québec or Canada to make regulations respecting the conservation of wildlife resources, in Category I-N lands and Category II-N lands, the competent authority, as defined hereinafter, may make regulations with respect to all matters specifically referring primarily to harvesting activities and to hunting and fishing by non-Natives and not primarily referring to the management of the wildlife resource itself including:

15.5.4.1) the allocation of the general quotas established pursuant to this section among individual Naskapis and non-Natives permitted to hunt and fish;

15.5.4.2) personal and community use;

15.5.4.3) the control of facilities for sport hunting and sport fishing;

15.5.4.4) commercial fishing facilities;

15.5.4.5) research concerning Naskapi harvesting;

15.5.4.6) seasons for harvesting and non-Native hunting and fishing and bag and possession limits, provided regulations made with respect to such matters shall be more restrictive than those regulations passed by Québec or Canada, as the case may be;

15.5.4.7) harvesting methods, subject to paragraph 15.3.11;

15.5.4.8) permits and licences for the purposes of this paragraph.

NQA, par. 15.5.4
Compl. A, no. 1, sch. 1, s. 2 (subpar. 15.5.4.8)

15.5.5 All by-laws or regulations proposed pursuant to paragraphs 15.5.3 and 15.5.4 shall be submitted, prior to adoption, to the Coordinating Committee for its advice. All such by-laws or regulations shall come into effect on the date that a certified copy thereof is submitted to the responsible minister of Québec or Canada who shall have the right within ninety (90) days from such receipt to disallow such by-laws or regulations.

15.5.6 Québec undertakes to recommend to l'Assemblée nationale an amendment to the laws creating the regional government north of the 55th parallel of latitude having the effect of making the recommendations of the Naskapi local authority as foreseen in paragraphs 15.5.3 and 15.5.4 binding upon the regional government.

15.6 Priority of Naskapi harvesting

15.6.1 The responsible governments and the Coordinating Committee shall apply the principle of priority of Naskapi harvesting in the Naskapi Sector, as set forth in this subsection.

15.6.2 The principle of priority of Naskapi harvesting shall mean that in conformity with the principle of conservation and where game populations permit, the Naskapis shall enjoy interim guaranteed levels of harvesting, with respect to those species found in the Naskapi Sector, established by taking into consideration the density and the productivity of each of said species in the Naskapi Sector and the needs of the Naskapis, the whole subject to the following:

15.6.2.1) upon the approval of the present Agreement, the Naskapi Native party and Québec or Canada, according to their respective jurisdictions, shall forthwith establish by negotiation, such interim guaranteed levels of Naskapi harvesting based principally, by extrapolation, upon the results obtained with respect to the Crees, commencing with the year 1975-1976, from the research project entitled "Research to establish present levels of native Harvesting" referred to in sub-paragraph 24.6.2 a) of the James Bay and Northern Québec Agreement.

15.6.2.2) these interim guaranteed levels of harvesting shall be reviewed periodically and may be modified by agreement between the Naskapi Native party and Québec or Canada, according to their respective jurisdictions.

15.6.2.3) the said interim guaranteed levels of harvesting shall be without prejudice to the rights and obligations of the said parties in the establishment of the guaranteed levels of harvesting.

15.6.3 The principle of priority of Naskapi harvesting shall also mean that in conformity with the principle of conservation and where game populations permit, the Naskapis shall enjoy guaranteed levels of harvesting with respect to those species found in the Naskapi Sector, established by taking into consideration the density and the productivity of each of said species in the Naskapi Sector, the needs of the Naskapis and the results of a survey of the levels of Naskapi harvesting to be undertaken by Québec or Canada, according to their respective jurisdiction, using methodology similar to that used for the gathering of information for the research project referred to in subparagraph 15.6.2.1. Such survey shall be carried out, with the cooperation and participation of the Naskapis, during a period of three (3) years immediately following the Naskapis establishing their permanent residence for the purposes of the present Agreement on Category IA-N lands and shall study Naskapi harvesting during such period. The report on this survey, copies of which shall be forwarded to each of the Native parties, shall contain only a tabulation of the numerical data collected and a statistical analysis thereof. Within one (1) year of the completion of the said survey, the guaranteed levels of Naskapi harvesting shall be established by negotiation through the intermediary of the Coordinating Committee, without the normal voting procedures applying in such case.

15.6.4 The survey of the levels of Naskapi harvesting contemplated by paragraph 15.6.3 shall also study the level of Naskapi harvesting of caribou in conformity with the Hunting, Fishing and Trapping Regime.

15.6.5 The establishment of the interim guaranteed levels of harvesting and the revision of the interim guaranteed levels of harvesting, except with respect to caribou, the interim guaranteed level of

harvesting of which shall not be revised, and the establishment of the guaranteed levels of harvesting, shall be subject to the approval of the Naskapi Native party and the interested government parties.

15.6.6 Notwithstanding paragraph 15.6.2, the interim guaranteed level of Naskapi harvesting of caribou is fixed at six hundred (600).

15.6.7 The guaranteed level of Naskapi harvesting of caribou shall be established in the manner provided in paragraph 15.6.3, and shall be subject to the approval of the interested Native parties and of Québec.

15.6.8 In applying the principle of the priority of harvesting by the Naskapis of Québec in the Naskapi Sector, the responsible governments and the Coordinating Committee shall, in any given year, in allocating quotas for harvesting and quotas for hunting and fishing by other persons, or in applying other game management techniques, assure that:

15.6.8.1) if game populations permit levels of harvesting equal to the guaranteed levels established pursuant to paragraphs 15.6.2, 15.6.3, 15.6.6 and 15.6.7, the Naskapis shall have the right to harvest up to the said guaranteed levels;

15.6.8.2) in allocating wildlife resources for harvesting or for hunting and fishing by persons other than Naskapis of Québec over and above the said guaranteed levels, the harvesting needs of the Naskapis of Québec and the needs for recreational hunting and fishing by persons other than Naskapis of Québec shall be taken into account;

15.6.8.3) subject to the provisions of subparagraphs 15.6.8.1 and 15.6.8.2, there shall always be some allocations of species for sport hunting and sport fishing by persons other than the Naskapis of Québec;

15.6.8.4) if game populations do not permit levels of harvesting equal to the guaranteed levels established pursuant to paragraphs 15.6.2, 15.6.3, 15.6.6 and 15.6.7, the Naskapis of Québec shall be allocated the entire kill and may allocate a portion of this kill to other persons through recognized outfitting facilities, except in the area of common interest for the Inuit and the Naskapis where the priority of harvesting shall be shared equally by the Inuit and the Naskapis in accordance with the provisions of the present Agreement and of the James Bay and Northern Québec Agreement, as amended from time to time.

However, the principle of priority of harvesting of the Inuit and of the Naskapis shall not apply with respect to the persons who are non-signatories to the present Agreement to whom harvesting rights may be granted in virtue of paragraph 15.3.3, nor shall the harvesting rights of such non-signatories have priority with respect to the harvesting rights of the Inuit or of the Naskapis.

15.6.8.5) The principle of priority of Naskapi harvesting shall also be applied with respect to such species as may not reasonably be managed by means of quotas.

15.6.8A Notwithstanding paragraph 15.6.8, with respect to the Caribou-Zone referred to in paragraph 24.13.7B of the James Bay and Northern Québec Agreement, as amended from time to time, the Inuit and the Naskapis shall similarly share equally the priority of harvesting with respect to caribou

in accordance with the provisions of the present Agreement and of the James Bay and Northern Québec Agreement, as amended from time to time.

15.6.9 Subject to the principle of conservation and when populations of these species in the Naskapi Sector permit, the principle of priority of Naskapi harvesting shall be applied to migratory birds in a manner similar or equivalent to the procedures hereinafter set forth:

15.6.9.1) in conformity with the procedure provided in paragraph 15.6.3, the levels of harvesting of migratory birds in the Naskapi Sector shall be established;

15.6.9.2) such levels of harvesting of migratory birds in the Naskapi Sector shall be combined with the levels of non-Native hunting of such birds in the Naskapi Sector to establish the total kill in the Naskapi Sector;

15.6.9.3) based upon the total kill figures for each migratory bird population in the Naskapi Sector and the total kill in the Territory for each migratory bird population, there shall be a determination of the percentage of the total kill of each population being taken in the Naskapi Sector;

15.6.9.4) this percentage figure shall constitute a guaranteed level so that in any given year the Naskapi Sector would be guaranteed at least the same percentage of the total kill in the Territory of each population hunted or harvested;

15.6.9.5) within the Naskapi Sector itself, the principle of priority of Naskapi harvesting shall apply to the allocation of quotas or use of other management techniques in such a way as to ensure that the Naskapis of Québec are guaranteed a harvest based on the levels of harvesting of migratory birds established in conformity with subparagraph 15.6.9.1;

15.6.9.6) in any given year when migratory bird populations permit for the Naskapi Sector a kill higher than the levels established pursuant to subparagraph 15.6.9.1 the Naskapis of Québec shall be allowed a kill equal to the levels established pursuant to subparagraph 15.6.9.1 and the remainder of the permissible kill for the Naskapi Sector shall be divided in such a way as to ensure primarily the continuance of the traditional pursuits of the Naskapis of Québec and secondarily so that persons other than Naskapis may satisfy their needs for recreational hunting;

15.6.9.7) in any given year when the migratory bird populations permit a kill for the Naskapi Sector lower than the levels established pursuant to subparagraph 15.6.9.1, the entire kill for the Naskapi Sector shall be allocated to the Naskapis of Québec, who shall have the right in turn to allocate a portion of this kill to hunting by persons other than Naskapis through recognized outfitting facilities, except in the area of common interest for the Inuit and the Naskapis where the priority of harvesting shall be shared equally by the Inuit and the Naskapis in accordance with the provisions of the present Agreement and of the James Bay and Northern Québec Agreement, as amended from time to time.

15.6.9.8) this guarantee shall not operate to endanger migratory bird populations;

15.6.9.9) this guarantee in itself shall not operate to prohibit or reduce hunting of migratory birds elsewhere in the flyway or in Canada.

15.7 Species reserved for Native people

15.7.1 The rights of the Naskapis of Québec set forth in Sub-Section 24.7 of the James Bay and Northern Québec Agreement, as amended from time to time, shall be subject to the other provisions of the Hunting, Fishing and Trapping Regime.

15.8 Hunting and fishing by persons other than Naskapis

15.8.1 Non-Native persons have the right to hunt and fish in Category III lands in the Naskapi Sector subject to the provisions of this section and other applicable laws and regulations, but such hunting and fishing shall be restricted to sport hunting, to sport fishing and to commercial fishing in Category III lands in the Naskapi Sector.

In addition, non-Native persons may hunt for commercial purposes, keep in captivity wildlife and conduct husbandry activities where provided in this section.

NQA, par. 15.8.1
Compl. A. no. 1, sch. 1, s. 3

15.8.2 The Naskapis of Québec shall have the exclusive right to hunt and fish within Category I-N lands and Category II-N lands and, under reserve of the rights specified in paragraph 15.8.4, persons other than Naskapis shall not have the right to hunt and fish therein. These persons other than Naskapis may hunt and fish with the express authorization of, and upon the terms and conditions established by, the Naskapi local authority. The exclusive rights provided for in this paragraph shall be strictly respected and enforced by the responsible governments in the Territory.

The Naskapi local authority may permit residents of Québec of Naskapi of Québec ancestry who are not eligible under the present Agreement, but who traditionally hunt, fish and trap in the Naskapi Sector, to exercise the right to harvest solely for personal purposes in Category I-N lands and Category II-N lands. Persons so authorized shall in no event be counted for purposes of allocating quotas to the Naskapis of Québec.

15.8.3 Persons other than Naskapis authorized to hunt and fish pursuant to paragraph 15.8.2 shall be subject to all applicable laws and regulations of Québec and Canada and all applicable local and regional government by-laws and regulations.

15.8.4 Non-Natives who meet the residency requirements established for the purposes hereof by the Naskapi local authority shall be permitted to sport hunt and sport fish within Category I-N lands and Category II-N lands in which they are resident. Such non-Natives shall be subject to all applicable laws and regulations of Québec and Canada and all applicable local and regional government by-laws and regulations.

15.8.5 Notwithstanding the provisions of paragraph 15.8.4, in the case of unusual or large influxes, for whatever reason, of non-Natives into the Category I-N lands or Category II-N lands, the Naskapi local authority may determine whether and upon what terms and conditions such non-Natives will be permitted to sport hunt and sport fish.

15.8.6 A control shall be exercised by the responsible governments and the Coordinating Committee over the number of non-Natives permitted to sport hunt and sport fish in Category III lands in the

Naskapi Sector and over the places in said Category III lands and over the times where they may sport hunt and sport fish with a view to giving effect to the principle of conservation and the rights and guarantees in favour of the Native people established by the Hunting, Fishing and Trapping Regime.

15.8.7 The use of outfitting facilities shall be considered as a principal means of controlling sport hunting and sport fishing activities in the Naskapi Sector. However, in the Naskapi area of primary interest, all requirements imposed in the application of the present section concerning the use of outfitting facilities shall not apply to residents of the Naskapi Sector unless the responsible minister decides otherwise.

15.8.8 Over and above other available means of controlling the numbers of non-Natives permitted to sport hunt and sport fish in the Naskapi area of primary interest and the places and times where and when they may sport hunt and sport fish and subject to paragraphs 15.8.7 and 15.8.9, Québec shall endeavor, to the extent that outfitting facilities are available, to require non-Natives hunting and fishing to use such facilities. Such requirements shall provide, to the extent deemed feasible, that non-Native hunters and fishermen be accompanied by Naskapi guides.

15.8.9 Subject to paragraph 15.8.7, in the event that Québec establishes in the Naskapi Sector requirements pursuant to paragraph 15.8.8, such requirements shall be imposed in the following order:

15.8.9.1) upon non-residents of Québec;

15.8.9.2) if further deemed necessary, upon persons residing in Québec south of the 50th parallel of latitude;

15.8.9.3) if further deemed necessary, upon persons residing in Québec north of the 50th parallel of latitude.

15.8.10 The Hunting, Fishing and Trapping Regime shall apply in full to all residents of the Naskapi Sector. The responsible minister, after consulting the Coordinating Committee, shall take into account the Hunting, Fishing and Trapping Regime and shall also take into account the non-Naskapi residents of the Naskapi Sector in the formulation and recommendation of measures concerning their sport hunting and sport fishing activities in the Naskapi area of primary interest. These measures may include the creating of special fishing zones, as well as big game hunting zones in the Naskapi area of primary interest, in order to reduce conflicts between Native harvesting and sport hunting and sport fishing by these persons other than Naskapis, for whom quotas shall be provided, and in these special zones paragraphs 15.8.8 and 15.8.9 shall not apply.

15.8.11 In that part of the Naskapi area of primary interest south of the 55th parallel of latitude, the Hunting, Fishing and Trapping Regime applies but, notwithstanding the provisions of paragraph 15.7.1, in said part of the Naskapi area of primary interest persons other than Naskapis residing in the said part of the Naskapi area of primary interest are authorized to sport fish all species of fish.

15.8.12 When the Coordinating Committee determines that the presence in the Naskapi Sector of temporary labour forces or a given temporary labour force involved in construction and related work may affect the Hunting, Fishing and Trapping Regime, including the application of the principle of conservation and the rights and guarantees in favour of the Naskapis established by the Hunting, Fishing and Trapping Regime, Québec shall make regulations concerning the controls and rules to apply

to the sport hunting and sport fishing activities of such temporary labor forces. The Coordinating Committee shall be involved in the establishment and review of such controls and rules and supervise the procedures concerning the implementation and enforcement thereof.

Such controls and rules shall include inter alia the designation of specific locations in the Naskapi Sector or specific facilities which shall be used by such labour forces for the purpose of sport hunting and sport fishing. The Coordinating Committee shall be entitled to receive all information necessary for the proper exercise of its functions pursuant to this paragraph and established by such regulations.

15.9 Outfitting regime

15.9.1 The outfitting regime in Category III lands in the Naskapi Sector is the outfitting regime for Category III lands set forth in Sub-Section 24.9 of the James Bay and Northern Québec Agreement, as amended from time to time. Nevertheless, the right of first refusal shall not apply to renewals or transfers of outfitting facilities presently existing in zone 0-4 established in virtue of Québec Order in Council 2399-75.

15.9.2 The Naskapis shall have the exclusive right to establish and operate outfitting facilities within Category I-N lands and Category II-N lands. The establishment and operation of outfitting facilities within Category I-N lands and Category II-N lands by persons other than Naskapis are subject to the express consent of the Naskapi local authority.

15.9.3 Persons other than Naskapis, including governments, presently operating as outfitters within Category I-N lands and Category II-N lands may continue to operate at the discretion of the Naskapi local authority, subject to the conditions hereinafter set forth:

15.9.3.1) the Naskapi local authority shall have the right to require such outfitters to cease operations within Category I-N lands and Category II-N lands at the expiry of the delay of at least two (2) years specified in a written notice sent by said local authority to such outfitter. Such notice shall not be given during an operating season;

15.9.3.2) within two (2) years following the approval of the present Agreement, the Naskapi local authority shall decide which of such outfitters shall be required to cease their operations in Category I-N lands or Category II-N lands and which of such outfitters shall be permitted to continue to operate therein and, in the latter case, upon what terms and conditions;

15.9.3.3) such outfitters permitted to continue their operations in Category I-N lands or Category II-N lands, as determined pursuant to subparagraph 15.9.3.2, shall have the right to continue to operate on the terms and conditions established for a period of not less than five (5) years nor more than nine (9) years from the date that such outfitters are notified of such a decision, and upon the termination of the said period such outfitters shall cease their operations in Category I-N lands or in Category II-N lands unless the Naskapi local authority agrees to permit them to continue such operations for a further period;

15.9.3.4) the Coordinating Committee shall supervise the procedures for the relocation of such outfitters required to cease their operations in Category I-N lands or in Category II-N lands;

15.9.3.5) the Naskapis shall have the right to decide whether or not they wish to operate in place of an outfitter required to cease his operation in Category I-N lands or in Category II-N lands in accordance with the following:

A) if the Naskapis decide to operate in place of such an outfitter they shall not be required to operate outfitting services of the same nature or scale but shall be permitted to enlarge, diminish or modify such services as they deem appropriate;

B) if the Naskapis wish to use all or part of the facilities of such an outfitter they shall purchase such outfitting assets belonging to him as they may wish. In the event that all such assets are not purchased by the Naskapis, such outfitter may remove his remaining assets and shall be compensated forthwith by Québec, and not by the Naskapis, in accordance with the rights, if any, contained in the permits, leases or agreements in virtue of which such outfitter operated. All such assets not purchased by the Naskapis and not removed by the outfitter within a period of two (2) years shall thereafter be considered abandoned by such outfitter to Québec;

C) in the event that the Naskapis decide to require government owned or operated outfitting facilities to cease operations, such facilities shall be transferred, gratuitously by the government to the Naskapi band, provided no transfers may be made by the government to individuals;

15.9.3.6) notwithstanding the right of first refusal for outfitting facilities granted to the Crees, the Inuit and the Naskapis by paragraph 24.9.3 of the James Bay and Northern Québec Agreement, as amended from time to time, outfitters required to cease operations in Category I-N lands or in Category II-N lands pursuant to paragraph 15.9.3 and who wish to relocate in Category III lands shall have the preferential right to select sites and facilities subject to the approval of the Coordinating Committee. Such preferential rights shall not be accorded to a government owning or operating an outfitting facility;

15.9.3.7) outfitters required to cease operations in Category I-N lands or in Category II-N lands after having been allowed to operate by the Naskapis pursuant to paragraph 15.9.3 shall be compensated by Québec to the extent of their rights, if any, contained in the permits, leases or agreements in virtue of which they operated, but such compensation shall be limited to the value of the outfitting facilities in existence at the time of the approval of the present Agreement.

15.10 Enforcement of regime

15.10.1 To the extent possible, Naskapis shall be included among the persons charged with enforcing the Hunting, Fishing and Trapping Regime.

15.10.2 To give effect to and provide adequate enforcement of the Hunting, Fishing and Trapping Regime, in the Naskapi Sector, Québec and Canada shall provide for the training of a sufficient number of Naskapis as conservation officers. To give effect to the foregoing Québec and Canada shall modify, when necessary, the criteria required for acceptance as a trainee and establish and fund special facilities, courses and training programs.

15.10.3 Naskapis duly qualified as conservation officers shall be empowered by Québec or Canada, as the case may be, to act as Québec conservation officers, game officers under the Migratory Birds

Convention Act, fisheries officers under the Fisheries Act and such other similar enforcement officers which may from time to time be provided for under applicable laws.

15.11 Environmental protection

15.11.1 The rights and guarantees of the Naskapis established by and in accordance with the Hunting, Fishing and Trapping Regime shall be guaranteed, protected and given effect to with respect to environmental and social protection by and in accordance with the applicable environmental and social protection regime.

15.12 Definitions of Territory and Naskapi Sector

15.12.1 In this section, the word "Territory" is that defined in paragraph 24.12.1 of the James Bay and Northern Québec Agreement.

15.12.2 The "Naskapi Sector" is that portion of the Territory comprising the Category I-N lands, the Category II-N lands and a part of Category III lands, the whole as shown on the map attached as schedule 1 to this section.

15.13 Areas of primary and common interest

15.13.1 For the purposes of this section, the areas of primary and common interest of the Crees, the Inuit and the Naskapis shall be as set forth in Sub-Section 24.13 of the James Bay and Northern Québec Agreement, as amended from time to time.

15.13.2 The Naskapis of Québec shall have the rights provided for in this section in their area of primary interest and in the area of common interest for the Inuit and the Naskapis. Outside of these areas, they shall have only the rights expressly specified in Section 24 of the James Bay and Northern Québec Agreement, as amended from time to time, subject to the restrictions contemplated in sub-paragraph 24.13.5 c) of the James Bay and Northern Québec Agreement, as amended from time to time.

15.14 Migratory birds

15.14.1 The Hunting, Fishing and Trapping Regime shall apply to migratory birds.

15.14.2 Within its responsibility for the management of migratory bird populations, Canada shall forthwith upon the approval of the present Agreement endeavor to obtain a modification or amendment to the Migratory Birds Convention and/or to the application of the said Convention in and to the Territory or to the Native people in the Territory to eliminate to the extent possible all conflicts with the Hunting, Fishing and Trapping Regime and in particular, subject to the principle of conservation, to eliminate to the extent possible any conflict with the right of the Native people to harvest at all times it being the position of Canada, that on the contrary, the said Convention and the said Act do apply to the Native people. Subject to the provisions of the present Agreement the Native people may avail themselves of any right or recourses, if any, in respect to migratory birds which they may have after the coming into force of the present Agreement.

15.15 Amendment clause

Except as otherwise provided for in this section, the provisions of this section may be amended with the consent of Québec and the interested Native party in matters within the jurisdiction of Québec and with the consent of Canada and the interested Native party in matters within the jurisdiction of Canada.

Legislation giving effect to such amendment, if required, shall be enacted by l'Assemblée nationale in matters within the jurisdiction of Québec, and by Parliament in matters within the jurisdiction of Canada.

Annex 1

See plan no. 10 (complementary Documents) : **SECTEUR POUR LES NASKAPI**