SECTION 3

Eligibility

3.1 Definitions

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

3.1.1 "Naskapi community" is a group consisting of all members of the Naskapi band, within the meaning of the Indian Act, in the Territory, as well as all other persons who are entitled to be enrolled as beneficiaries under the present section who are recognized by said band as belonging to said group;

3.1.2 "Indian Act" is an Act respecting Indians, 1970, R.S.C., c. I-6 as amended;

3.1.3 "minor" is an unmarried male or female person who has not yet attained the age of eighteen (18);

3.1.4 "recognition by the community" includes a resolution approved by a majority of the members of the council of the Naskapi band;

3.1.5 "adoption" is the adoption of a child who has not reached the age of majority at the time of the adoption, which adoption was effected pursuant to the laws relating to adoption in any of the provinces of Canada or pursuant to the customs of the Naskapis in the Territory;

3.1.6 "Secretary General" is the secretary general of the Registre de la population du Québec;

3.1.7 "Québec Native Appeal Board" is the board established pursuant to paragraph 3.4.5 of the James Bay and northern Québec Agreement.

3.2 Eligibility

3.2.1 A person shall be entitled to be enrolled as a beneficiary under the present Agreement and be entitled to benefit therefrom if on June 30, 1977, he or she was:

3.2.1.1) under the Indian Act, a member or a person entitled to be a member of the Naskapi band; or

3.2.1.2) a person of Naskapi ancestry ordinarily resident in the Territory; or

3.2.1.3) a person of Naskapi or Indian ancestry who is recognized by the Naskapi community as having been on such date a member thereof; or

3.2.1.4) the child, including the adopted child, of a person mentioned in subparagraph 3.2.1.1, 3.2.1.2 or 3.2.1.3.

3.2.2 On or after July 1, 1977, a person is entitled to be enrolled as a beneficiary under the present Agreement and entitled to benefit therefrom as a member of the Naskapi community if he or she is:

3.2.2.1) a person who is a legitimate or illegitimate descendant in the male or female line of a person entitled to be enrolled pursuant to paragraph 3.2.1 or 3.2.3;

3.2.2.2) the adopted child of a person described in paragraph 3.2.1 or subparagraph 3.2.2.1 provided such child is a minor at the time of the adoption.

3.2.3 After six (6) months following the posting of the official list referred to in subparagraph 3.3.6.2, the council of the Naskapi band may, from time to time, at its discretion, direct the Secretary General to enroll as a beneficiary under the present Agreement and as a person entitled to benefit therefrom, a person who is of Naskapi ancestry provided such person:

3.2.3.1) was born in the Territory; or

3.2.3.2) is ordinarily resident in the Territory; and

3.2.3.3) he or she would have been entitled to be enrolled with his or her descendants pursuant to paragraph 3.2.1 or 3.2.2 but through inadvertence or for any other reason, was omitted from the official list of beneficiaries prepared in accordance with paragraph 3.3.6.

The provisions of this paragraph shall not prevent any person omitted from the official list of beneficiaries prepared in accordance with paragraph 3.3.6 from exercising his right to appeal pursuant to subsection 3.4.

3.2.4 In the event a person mentioned in paragraphs 3.2.1 to 3.2.3 inclusive is absent from the Territory during ten (10) continuous years and is domiciled outside the Territory, such person shall not be entitled to exercise his rights or to receive benefits under the present Agreement. Upon such person re-establishing his domicile in the Territory, the exercise of such person's rights and the entitlement to receive such benefits under the present Agreement shall revive subject to those restrictions specified in subsection 20.28 that may be applicable.

3.2.5 Notwithstanding any other provision in this section, a person shall not be enrolled on both the Naskapi list and on one of the other lists established pursuant to the James Bay and Northern Québec Agreement. Furthermore, a person entitled to be enrolled on more than one list established pursuant to the James Bay and Northern Québec Agreement and the present Agreement shall, after being requested to do so by the Secretary General, notify the Secretary General as to the list on which he or she wishes to be enrolled, and failing to do so, the Secretary General shall decide the list on which that person shall be enrolled. If a person already enrolled on one of the lists established pursuant to the James Bay and Northern Québec Agreement is informed by the Secretary General that he is entitled to change his enrollment to the Naskapi list, and such person fails to indicate that he wishes such a change to be effected, such person shall remain on the list on which he is already enrolled.

3.3 Enrollment

3.3.1 Within one (1) month of the approval of the present Agreement, the Naskapi community shall establish a Local Enrollment Committee composed of three (3) resident members nominated by the council of the Naskapi band and appointed by the Enrollment Commission. The Local Enrollment Committee shall cease to exist simultaneously with the cessation of the Enrollment Commission pursuant to paragraph 3.3.10. Notwithstanding the foregoing, if the said local committee is not formed within one (1) month after the said approval, the Enrollment Commission shall then exercise all the duties and functions of the Local Enrollment Committee and proceed with the enrollment.

3.3.2 The Local Enrollment Committee shall have the following duties and functions:

3.3.2.1) to publicize and provide information in respect of the enrollment process to members of the Naskapi community;

3.3.2.2) to supply application forms to any person wishing to apply for enrollment;

3.3.2.3) to receive completed applications for enrollment;

3.3.2.4) to prepare a list of all persons who in its opinion are entitled to be enrolled in accordance with the criteria set out in paragraphs 3.2.1 to 3.2.5 inclusive;

3.3.2.5) to certify and to forward the list to the Enrollment Commission on or before the date fixed by the latter;

3.3.2.6) to prepare a list of the names of all applicants who have been refused enrollment and forward that list together with all relevant information and documentation to the Enrollment Commission;

3.3.2.7) to furnish within the delays fixed by the Enrollment Commission the information, and to effect the specific tasks, requested by the Enrollment Commission.

3.3.3 Within one (1) month of the approval of the present Agreement, an Enrollment Commission shall be established comprised of:

3.3.3.1) a person appointed by the council of the Naskapi band;

3.3.3.2) a person appointed by Québec;

3.3.3.3) a person appointed by Canada.

The Enrollment Commission shall be formed and shall assume its powers, duties and functions, even if one of the parties should delay the naming of its representative.

3.3.4 A chairman shall be elected by the members of the Enrollment Commission from among themselves.

3.3.5 A majority of the members constitutes a quorum of the Enrollment Commission.

3.3.6 Among its powers, duties and functions, the Enrollment Commission:

3.3.6.1) shall be responsible for the preparation of the official list of persons entitled to be enrolled in accordance with the criteria set out in paragraphs 3.2.1 and 3.2.2;

3.3.6.2) shall publish, within twelve (12) months of the approval of the present Agreement, the official list and shall forward a copy thereof to the council of the Naskapi band and shall cause a copy thereof to be posted in a place in the community where notices are ordinarily displayed.

3.3.7 The Enrollment Commission shall have the following powers:

3.3.7.1) to determine the places and dates of such meetings as it deems necessary;

3.3.7.2) to fix the date for receiving the list referred to in subparagraph 3.3.2.4;

3.3.7.3) to establish its own procedures and standards of evidence;

3.3.7.4) to commit, in accordance with the provisions of la Loi de l'administration financière du Québec (L.Q. 1970, c. 17), the expenditure of such funds as are allocated to it for the purpose of carrying out its duties and functions.

3.3.8 The Enrollment Commission shall have the following duties and functions:

3.3.8.1) to assist the Local Enrollment Committee in carrying out its duties and functions;

3.3.8.2) to prepare and provide such information and forms as may be necessary to enable the Local Enrollment Committee to conduct the enrollment;

3.3.8.3) to refer to the Local Enrollment Committee those applications for enrollment which are submitted directly to the Enrollment Commission by individual applicants;

3.3.8.4) to review the list of names submitted by the Local Enrollment Committee pursuant to subparagraphs 3.3.2.4, 3.3.2.5 and 3.3.2.6 and add thereto or delete therefrom the names of persons who may or may not be entitled to be enrolled in accordance with the criteria set out in subsection 3.2;

3.3.8.5) to prepare, certify, publish and advertise the official list;

3.3.8.6) to notify the Local Enrollment Committee of the names of all persons who have been added to or deleted from the list prepared by the Local Enrollment Committee;

3.3.8.7) to notify each applicant whose name has not been put on the official list and to notify each person whose name has been added to or deleted from the list submitted by the Local Enrollment Committee and to inform that applicant or person of the reason for the Enrollment Commission's decision and of his or her right to appeal.

3.3.9 Where it appears to the Enrollment Commission that the Local Enrollment Committee is not able to carry out by the date fixed by the Enrollment Commission, or that it is failing to carry out, the duties and functions provided by paragraph 3.3.2, the Enrollment Commission may carry out any or all of the duties and functions of the Local Enrollment Committee.

3.3.10 Within one (1) month of the publication and posting of the official list or of the notifications mentioned in subparagraph 3.3.8.7, whichever is the later, the Enrollment Commission shall deposit with the Secretary General and the Minister of Indian Affairs and Northern Development a copy of the official list, and shall deposit with the Secretary General all its official records and documents. The Enrollment Commission shall thereafter cease to exist.

3.4 Appeals

3.4.1 Within six (6) months of the posting in accordance with subparagraph 3.3.6.2 of the official list of beneficiaries, an appeal shall lie to the Québec Native Appeal Board in respect to the omission, inclusion or exclusion or deletion of the name of a person to or from such list.

3.4.2 Within six (6) months of the notification by the Secretary General that the name of a person has been added to or deleted from the Naskapi Register by the Secretary General or within six (6) months of the notification by the Secretary General of his refusal to include the name of a person on the Naskapi Register, an appeal shall lie to the Québec Native Appeal Board in respect thereto.

3.4.3 Only one (1) appeal may be made to the Québec Native Appeal Board pursuant to paragraph 3.4.1 or 3.4.2.

3.4.4 The following persons may appeal to the Québec Native Appeal Board pursuant to paragraph 3.4.1 or 3.4.2:

3.4.4.1) a person whose name was omitted from, included in, excluded or deleted from the list;

3.4.4.2) a person whose name was added to or deleted from the Naskapi Register;

3.4.4.3) a person whose application was refused by the Secretary General;

3.4.4.4) the council of the Naskapi band until the establishment of the Naskapi local authority pursuant to the provisions of section 8 and thereafter the Naskapi local authority or its successor.

3.4.5 The Minister of Indian Affairs and Northern Development shall be notified by the Secretary General of all appeals under this subsection and shall have the right to intervene on his own behalf or, at the request of the appellant, on the appellant's behalf, in any such appeal presented to the Québec Native Appeal Board.

3.5 Registration of beneficiaries

3.5.1 Québec shall maintain a Naskapi Register in which shall be recorded the names of the persons entitled to be enrolled in accordance with this section.

3.5.2 This Naskapi Register shall indicate the date on which each name is added thereto or deleted therefrom.

3.5.3 The Secretary General may at any time add to or delete from the Naskapi Register the name of any person who, in accordance with the provisions of this section, is entitled or not entitled to have his name included in such register.

3.6 Local registry officer

3.6.1 A qualified member of the Naskapi community shall be appointed as the local registry officer by the responsible Minister of Québec.

3.6.2 The local registry officer shall keep and maintain the Naskapi community list and he shall forwith notify the Secretary General of all changes in the Naskapi community list necessitating changes in the Naskapi Register.

3.6.3 The local registry officer may, in addition, be appointed for the registration of acts of civil status and vital statistics in accordance with the appropriate Québec laws.

3.7 Costs

3.7.1 Canada and Québec shall each pay half of the total amount of expenses incurred for the initial enrollment. The total budget of the Enrollment Commission for such purposes shall be twenty thousand dollars ($20,000).

3.8 Amendment

3.8.1 This section may be amended only with the consent of Québec, Canada and the Naskapi Native party, with the exception of paragraph 3.2.5 which in addition shall require the consent of the Cree Native party and the Inuit Native party.