

MAMO WIKISIWINANIWOK
 KE KACKIHITISOTC KA ICI WIKOTCIHITISOTC
 KE TOTCIKATEK

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 Tsi Ioterihwationhátié
 Karihwaierí : ton

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partnership development achievement

ABORIGINAL AFFAIRS
 QUÉBEC GOVERNMENT
 GUIDELINES



(ATTIKAMEK) MAMO WIKISIWINANIWOK
KE KACKIHITISOTC KA ICI WIKOTCIHITISOTC
KE TOTCIKATEK

(MOHAWK) TTEWATERÓHON
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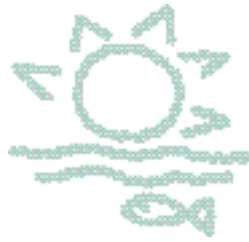
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MESSAGE FROM THE PRIME MINISTER

1998 marks the twentieth year since the creation of the Secrétariat aux affaires autochtones. The Québec government is taking the occasion of this anniversary to implement new guidelines which will enable aboriginal nations and communities to take their development in hand and achieve greater autonomy.

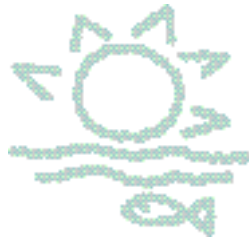
It is time for recognition of these nations, such as René Lévesque wished for and the National Assembly approved on March 20, 1985, to become a concrete reality. I hereby express the hope that as of now the aboriginal representatives and the Québec government can move forward on the path of their development as distinct nations.

I understand how important it is to be able to address the priorities of these communities quickly and appropriately. That is why I reiterate the Québec government's commitment to make every effort to support aboriginal people through partnership projects that will respond to their legitimate aspirations. I profoundly believe that together we will succeed in making social and economic development the cornerstone of greater autonomy and of control by aboriginal people over their own destiny. Moreover, the government upholds its commitment to work for the settlement of land claims.

I hope that the dialogue thus begun will further the understanding and sharing of our concerns. To that end, the new guidelines established by my government together with the proposed measures seek to emphasize the development of a relationship of trust based on mutual respect.

I invite all of us to take up this challenge, one which I am convinced will benefit Québec in its entirety.

Lucien Bouchard



MESSAGE FROM THE MINISTER RESPONSIBLE FOR ABORIGINAL AFFAIRS

I am very proud to present to you the Québec government's guidelines concerning aboriginal affairs. We are offering the aboriginal nations and communities the occasion to assume greater responsibilities, and we are proposing concrete means for them to do so.

The creation of a development fund for aboriginal people and the establishment of a political forum are two of the important proposals in this paper. The fund is to be made up of two sections: economic development and community infrastructures. The government will also be proposing ways that will lead to the participation of aboriginal people in economic and resource development, a participation that may be made the object of agreements. Finally, other means are to be put forward to enable the aboriginal communities to become more financially self-sufficient. With regard to the political forum, elected officials, both aboriginal and non-aboriginal, will be able to meet there to conduct beneficial exchanges, on a permanent basis.

The Québec government intends to associate aboriginal people closely with the implementation of these new guidelines. It is within an evolving dynamic that we are committing ourselves, one that each aboriginal nation or community will be able to take part in according to its own priorities.

Québec is ready to take steps which will lead to greater autonomy for aboriginal communities, if that is the will of aboriginal people. I am convinced that by working together, we will be able to offer our people better prospects for the future.



Guy Chevrette

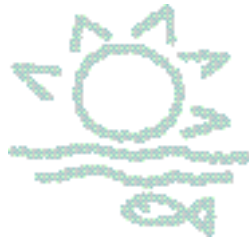


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INTRODUCTION

This paper contains the Québec government's guidelines on aboriginal affairs. The government henceforth will base its action on the approach described.

Over the last ten years, there have been many changes with aboriginal communities, which are showing a growing determination to take charge of their future and their ability to do so. Currently, the major issues for the Québec government and the aboriginal nations are, in particular, land and resources, economic development, self-government and financial self-sufficiency. These issues should be covered by negotiated agreements.

The Québec government wants to further harmonize its relations with aboriginal people and deal with their concerns more concretely. It also intends to ensure that its actions in aboriginal communities are consistent and cohesive.

The proposed guidelines:

- are consistent with earlier political steps, namely, the National Assembly's resolution in 1985 and the 15 principles of 1983;
- take account of priority needs identified by the Amerindian and Inuit communities;
- promote the conclusion of agreements for development and assumption of responsibility with aboriginal people according to a partnership approach, and the renewal of agreements to continue work already under way;
- propose that agreements be concluded concerning aboriginal institutions and contractual jurisdictions;
- make it easier to pass appropriate legislative amendments;
- suggest the implementation of a bipartite commission to design a permanent forum for political exchanges;
- offer a new approach to develop self-government and the financial self-sufficiency of aboriginal communities;
- contribute to economic and community development by setting up a fund and, consequently, promote job creation.

The approach is one that seeks overall fairness: aboriginal and non-aboriginal people must both have access to the same living conditions, the same general development conditions and a fair share of the collective wealth, while enabling aboriginal people to maintain and develop their identity.



1

MULTIPLE ISSUES

1.1 A difficult socioeconomic situation

Aboriginal communities face a number of situations generally considered to be difficult: economic under-development for some, multiple social problems, etc. These situations and their short and long-term consequences jeopardize the future of these communities and their harmonious relations with other Quebecers.

According to Statistics Canada and the Bureau de la statistique du Québec, the unemployment rate among aboriginal people is holding at double the average rate for other Quebecers. They earn less income and depend to a greater extent on transfer payments: the average income of aboriginal households is 20% less than that of other households in Québec, while aboriginal households are almost twice as large; employment income accounts for 77% of total income of Québec households, compared to only 42% among aboriginal people.

Aboriginal people are much less likely to go on to secondary and post-secondary education. More than 40% of aboriginal people have not completed secondary three, compared to 20% for Quebecers as a whole. While the data in this regard are incomplete, dropping out of school, even at the primary level, is very worrisome in most aboriginal communities. For instance, in some of them, the drop-out rate is 10% in primary school and reaches 50% by the third year of secondary school.

The aboriginal population is very young, younger than that of Québec as a whole. Those under 14 account for 20% of Québec's total population and 30% of the aboriginal population. Among the Crees, the Inuit, the Attikameks and the Montagnais, this proportion reaches 40%. Their communities must prepare to receive this wave of young people who will soon be entering the labour market.

This demographic surge among aboriginal people could, in the near future, cause serious social problems in communities that already have their hands full. If the increase in population takes place in a difficult socioeconomic

context, it could generate tensions between aboriginal communities and Québec as a whole. To deal with these difficulties, aboriginal communities must, among other things, emerge from their isolation and take a more active part in the economic life of their region. The causes of their isolation, whether legal, cultural or other, must be removed.

Until now, the economy of aboriginal communities depended to a large extent on transfer payments and markets outside the communities. This economy is based on the service sector, which accounts for over 90% of employment, compared to 73.5% for Québec as a whole. The public services sector accounts for 32% of jobs among aboriginal people as opposed to 7% of jobs in Québec.

The main difficulties that hamper economic development among aboriginal people are:

- lack of training;
- limited participation in the development of natural resources;
- weak organization, remoteness and isolation of businesses, and of aboriginal communities in general, in relation to economic markets and systems;
- attitudes to the business community and approaches to the development of resources which, for some, are opposed to traditional cultural values;
- no tradition of saving and credit;
- lower regard for private enterprise;
- the failure of aboriginal and non-aboriginal people to appreciate each other and the difficulties they both have in becoming economic partners;
- inadequacy of government measures in view of the special features of economic development among aboriginal people;
- the problem of access to capital for aboriginal people: the lack of real property, impossibility of obtaining a mortgage, immunity from seizure of property on reserves, etc.

Economic, social and community development has become a major issue for aboriginal people and governments. For aboriginal people first of all, who in recent decades have begun to reaffirm their identity and take charge of their development. And for governments as well, since development among aboriginal people will contribute to that of the population as a whole.

1.2 Self-affirmation and a will to take charge

Aboriginal people are increasingly affirming their identity and their will to take charge of their future. This is evidenced in particular by greater participation in various social and economic sectors, even though the socio-economic situation remains difficult for them like other Quebecers.

In addition, this identity is affirmed in all kinds of ways: growing involvement in the constitutional conferences of the 1980s and 1990s, land claims, sectoral agreements reached by the Québec government and aboriginal communities for more autonomy (police services, health, etc.); a number of on-going talks and negotiations between Québec and aboriginal people concerning land and autonomy. The growing determination of aboriginal people to develop their identity is now an essential feature of relations with Québec.

1.3 The land issue

Land and its resources are undoubtedly one of the major issues, since a large number of aboriginal claims relate to control, sharing or access to resources. In general, aboriginal people claim the right to carry on their traditional activities free from any legislative or regulatory constraint, whether federal or provincial. They base their position on the aboriginal rights recognized by section 35 of the Constitution Act, 1982.

Aboriginal people also want to play an important role in managing and developing the territory. They want to participate in decisions taken by governments and benefit from the fiscal and economic spin-offs stemming from these activities.

Ownership, management and development of land and resources directly concern Québec. It must be able to exercise its responsibilities for the benefit of Québec society as a whole, including aboriginal people, while taking account of existing aboriginal rights and treaty rights.

In this perspective, along with a concern for territorial integrity, the Québec government tabled an offer, in December 1994, to the Attikameks and the Montagnais, in which it set down its vision of the territory and its use.

To date, the parties have yet to agree on a common vision on the land issue. However, discussions are continuing and the government is still interested in reaching an agreement on land with the Attikameks and the Montagnais.

The challenge Québec now faces is to rethink the issues related to land from a dual perspective: develop a partnership approach with aboriginal people that respects their identity, and reconcile aboriginal aspirations with those of Quebecers as a whole, while maintaining the territorial integrity of Québec.

1.4 Self-government

This issue is now central to all negotiations with the Amerindian and Inuit nations because they demand the authority to control their own development while maintaining strong links with the federal government, which may appear contradictory. To that end, aboriginal people invoke the inherent right of self-government which would allow their governments to exercise constitutional powers even if agreements are not reached with the federal government and that of Québec. They also ask that self-government agreements be protected constitutionally.

Currently, virtually all Amerindian bands in Canada are subject to the Indian Act. These bands hold certain local powers, but essentially remain subject to the authority of the federal Minister of Indian and Northern Affairs.

The powers claimed by aboriginal people generally concern provincial jurisdiction. They involve management of the territory, education, health and social services, administration of justice, public security, taxation, etc. Accordingly, the issue of self-government is of utmost concern to Québec.

In dealing with the issue of self-government, the Québec government cannot ignore the position of aboriginal people on this question.

In addition, beyond this debate, acceptable means must be found for aboriginal people and the Québec government to increase the responsibilities of aboriginal communities. This search for solutions takes account of what Québec considers to be fundamental reference points: territorial integrity, sovereignty of the National Assembly, legislative and regulatory effectivity. The aspirations of aboriginal people which, in many regards, are of the same order as the government's reference points, must be considered.

1.5 Financial self-sufficiency and economic development

In addition to taking concrete steps so that aboriginal people can exercise their right of self-government within Québec, the government wants to cooperate with aboriginal communities to deal with their economic difficulties.

These problems show up, among other ways, in a very high unemployment rate, which could worsen in the future if nothing is done, since a growing number of aboriginal young people are reaching adult age. In addition, it must be acknowledged that the geographical isolation of many aboriginal communities hampers their economic development and that the potential for job creation in many regions is limited. Aboriginal people are aware of these realities and are working on the economic development of their communities. The Québec government is prepared to provide them with practical support, to the extent its means will allow.

In addition, a quick overview is enough to pinpoint pressing needs for basic community infrastructures: daycare facilities, youth centres, homes for senior citizens, multi-purpose community centres. Sometimes, public security and justice buildings and equipment are lacking or insufficient. In other cases, local water, sewer or road infrastructures are not all they should be.

The Québec government wants to provide aboriginal people with long-term support as they seek greater financial self-sufficiency and levers for economic development.

1.6 A threesome

As a result of the division of powers in the Canadian constitution, relations between the Québec government, aboriginal people and the federal government inevitably form a threesome. This is characterized mainly by complex and difficult relations resulting from the fact that the players frequently adopt divergent positions, take steps that have an impact on the others and have aspirations that are sometimes difficult to reconcile. The main features of these triangular relations are:

THE FEDERAL GOVERNMENT

- It has exclusive authority concerning “Indians and lands reserved for Indians” under section 91(24) of the Constitution Act, 1867.
- It is responsible for the application of the Indian Act, passed in 1876 and amended many times since. This act defines the status of Indians and the lands reserved to them as well as their rights, powers and obligations.
- Over the years, the exercise of federal authority and case-law have developed and consolidated the federal government’s role of fiduciary regarding Indians, i.e., its role in protecting their interests.
- Section 35 of the Constitution Act, 1982 recognized existing aboriginal and treaty rights of the aboriginal peoples; similarly, many judgments have laid out major landmarks concerning these rights, over the last 25 years. All these legal parameters have profoundly changed relations of aboriginal people with the federal and provincial governments.
- By exercising its authority and applying the Indian Act, the federal government has reached the position of delivering most programs and financing affecting aboriginal people in Québec.
- In 1986, it thoroughly revised the 1973 comprehensive land claims policy. The land claim of the Attikameks and the Montagnais is being negotiated within this framework.
- In 1995, it adopted a policy recognizing the inherent right of aboriginal people to self-government as an existing right under section 35 of the Constitution Act, 1982. However, in practice, most powers the aboriginal people intend to exercise under this recognition duplicate powers of Québec. In addition, apart from the need for implementation agreements, this federal policy excludes most federal powers from the inherent right of self-government of aboriginal people.
- In 1998, it released Canada’s Aboriginal Action Plan in response to the Report of the Royal Commission on Aboriginal People.

THE QUÉBEC GOVERNMENT

- The Québec government’s action is highly significant for the Crees, Inuit and Naskapis who have signed the major northern agreements. After these agreements were signed, Québec passed a number of statutes and implemented a series of technical, institutional and financial assistance programs regarding these nations, in most of the major spheres of public life, i.e., education, health, justice, natural resources, the environment, housing, transportation, etc.
As for aboriginal nations that have not signed agreements, Québec is intensifying its action with them. This is reflected in social, cultural and

economic development assistance measures, in administrative arrangements, in broader negotiations on land claims or the development of autonomy and in specific agreements concerning, among other things, police services, natural resources, etc.

- Over the years, Québec has developed a position which considers aboriginal people to be both citizens of Québec and as having their own identity. Under this approach, Québec considers that its actions are also geared to aboriginal people: for instance, universal health and social security programs, protection and development of the territory and natural resources in the public interest, etc.

Also in keeping with this approach, Québec has signed and continues to reach sectoral agreements with aboriginal people that include specific provisions to try to respond to certain aspirations, practices or priorities of aboriginal communities or, in some cases, nations.

- Under the current constitutional framework, Québec offers its own Québec-aboriginal people dynamic in which the federal government will be invited to participate when necessary. This applies, for instance, in matters in which the federal government is already involved and in tripartite agreements.
- Québec wants to facilitate economic development and partnership with aboriginal people. To do so, it is prepared to work in concert with the federal government to pool greater monetary resources.
- However, even if it raises its financial involvement over the years, Québec has no intention of taking the federal government's place in terms of financing, any more than it intends its commitment to result in savings for the federal government, which must continue to fulfill its fiduciary obligations.

ABORIGINAL PEOPLE

- Aboriginal people have, over a long period of time, developed a close link with the federal government at the institutional, administrative and financial levels and insist on maintaining this link.
- Although their relation with Québec is not as strong, more and more aboriginal communities are approaching the Québec government to contribute to their social and economic development or to try to harmonize their exercise of greater self-government with Québec's institutional framework.
- Aboriginal people want to take part in economic development, notably by participating in the development of natural resources.
- Aboriginal people are seeking to reposition themselves in relation to the exercise of provincial and federal powers. In the case of the federal government, the policy of recognition of the inherent right of self-

government of aboriginal people has yet to change the situation of aboriginal communities in practice. For now, they carry out the same responsibilities as in the past.

Aboriginal and non-aboriginal populations live in Québec on the same territory and must necessarily have economic, social and political ties. This reality, as well as the current constitutional framework, require that relations be harmonized and partnerships be developed in this threesome.



2 GUIDELINES, PRINCIPLES, STRATEGIC CHOICES AND AREAS OF INTERVENTION

2.1 Guidelines and principles

The resolutions passed by the National Assembly in 1985 and 1989, as well as the 15 principles passed by Cabinet in 1983, provide the underpinning of Québec's action and identify the basic guidelines and principles for the strategic choices and proposed framework for intervention.

The resolution of the National Assembly

On March 20, 1985, Québec's National Assembly passed a resolution which still today forms the basis of relations between Québec and aboriginal people. The resolution is as follows:

MOTION FOR THE RECOGNITION OF ABORIGINAL RIGHTS IN QUÉBEC:

That this Assembly:

Recognize the existence of the Abenaki, Algonquin, Attikamek, Cree, Huron, Micmac, Mohawk, Montagnais, Naskapi and Inuit nations in Québec;

Recognize existing aboriginal rights and those set forth in the James Bay and Northern Québec Agreement and the Northeastern Québec Agreement;

Consider these agreements and all future agreements and accords of the same nature to have the same value as treaties;

Subscribe to the process whereby the Government has committed itself with the aboriginal peoples to better identifying and defining their rights—a process which rests upon historical legitimacy and the importance for Québec society to establish harmonious relations with the native peoples, based on mutual trust and a respect for rights;

Urge the Government to pursue negotiations with the aboriginal nations based on, but not limited to, the fifteen principles it approved on February 9, 1983, subsequent to proposals submitted to it on November 30, 1982, and to conclude with willing nations, or any of their constituent communities, agreements guaranteeing them the exercise of:

- a) the right to self-government within Québec;
- b) the right to their own language, culture and traditions;
- c) the right to own and control land;
- d) the right to hunt, fish, trap, harvest and participate in wildlife management;
- e) the right to participate in, and benefit from, the economic development of Québec;

so as to develop as distinct nations having their own identity and exercising their rights within Québec;

Declare that the rights of aboriginal peoples apply equally to men and women;

Affirm its will to protect, in its fundamental laws, the rights included in the agreements concluded with the aboriginal nations of Québec; and

Agree that a permanent parliamentary forum be established to enable the aboriginal peoples to express their rights, needs and aspirations.

Subsequently, on May 30, 1989, the National Assembly passed the following resolution recognizing the existence of the Malecite nation:

That the National Assembly recognize the existence in Québec of the Malecite nation in the same way as the ten other aboriginal nations recognized by the resolution of the National Assembly of March 20, 1985.

The 15 principles

The 15 principles referred to in the resolution of the National Assembly are those which Cabinet adopted on February 9, 1983, which read as follows:

- 1) Québec recognizes that the aboriginal peoples of Québec constitute distinct nations, entitled to their own culture, language, traditions and customs, as well as having the right to determine, by themselves, the development of their own identity.
- 2) It also recognizes the right of aboriginal nations, within the framework of Québec legislation, to own and to control the lands that are attributed to them.
- 3) These rights are to be exercised by them as part of the Québec community and hence could not imply rights of sovereignty that could affect the territorial integrity of Québec.
- 4) The aboriginal nations may exercise, on the lands agreed upon between them and the government, hunting, fishing and trapping rights, the right to harvest fruit and game and to barter between themselves. Insofar as possible, their traditional occupations and needs are to be taken into account in designating these lands. The ways in which these rights may be exercised are to be defined in specific agreements concluded with each people.
- 5) The aboriginal nations have the right to take part in the economic development of Québec. The government is also willing to recognize that they have the right to exploit to their own advantage, within the framework of existing legislation, the renewable and unrenewable resources of the lands allocated to them.
- 6) The aboriginal nations have the right, within the framework of existing legislation, to govern themselves on the lands allocated to them.
- 7) The aboriginal nations have the right to have and control, within the framework of agreements between them and the government, such institutions as may correspond to their needs in matters of culture, education, language, health and social services as well as economic development.
- 8) The aboriginal nations are entitled within the framework of laws of general application and of agreements between them and the government, to benefit from public funds to encourage the pursuit of objectives they esteem to be fundamental.

- 9) The rights recognized by Québec to the aboriginal peoples are also recognized to women and men alike.
- 10) From Québec's point of view, the protection of existing rights also includes the rights arising from agreements between aboriginal peoples and Québec concluded within the framework of land claims settlement. Moreover, the James Bay and Northern Québec Agreement and the Northeastern Québec Agreement are to be considered treaties with full effect.
- 11) Québec is willing to consider that existing rights arising out of the Royal Proclamation of October 7, 1763, concerning aboriginal nations be explicitly recognized within the framework of Québec legislation.
- 12) Québec is willing to consider, case by case, the recognition of treaties signed outside Canada or before Confederation, aboriginal title, as well as the rights of aboriginal nations that would result therefrom.
- 13) The aboriginal nations of Québec, due to circumstances that are peculiar to them, may enjoy tax exemptions in accordance with terms agreed upon between them and the government.
- 14) Were the Government to legislate on matters related to the fundamental rights of the aboriginal nations as recognized by Québec, it pledges to consult them through mechanisms to be determined between them and the Government.
- 15) Once established, such mechanisms could be institutionalized so as to guarantee the participation of the aboriginal nations in discussions pertaining to their fundamental rights.

These 15 principles continue to underlie the government's action concerning aboriginal people.

2.2 Strategic choices

A new approach regarding strategic choices is proposed. It is based on possible solutions to land problems, on the conclusion of agreements concerning aboriginal institutions and the exercise of contractual jurisdictions, on the harmonization of various responsibilities of the Québec government and aboriginal governments. A new dynamic, based on trust, respect and greater autonomy for aboriginal communities should result, while taking account of territorial integrity, the rights of third parties and the needs of

society as a whole. These strategic choices will be given practical effect in measures defined in the intervention framework described in chapter 3.

2.2.1 Land and resources

Land issues will be dealt with according to the following situations:

- a) in the context of comprehensive land claims, conclusion of land agreements with the Attikameks and the Montagnais, under the approach Québec has already conveyed in the 1994 offer to the Attikameks and Montagnais, namely:
 - wholly-owned lands: domains;
 - land on which traditional activities are carried out: traditional activity areas;
 - shared management land: the shared resource management areas included in traditional activity areas;
- b) as part of the expansion of Indian reserves to meet the need for basic community infrastructures such as housing, education, health, etc.;
- c) in exceptional situations specific to a community and requiring immediate attention, for instance those of Oujé-Bougoumou and Kanesatake.

Québec will work with aboriginal nations or communities to find ways for them to participate in the development of the land, benefit from it and continue their traditional activities, if they so wish.

Québec will encourage:

- the economic development of aboriginal people by facilitating, in particular through agreements, their access to certain resources outside reserves;
- participation of aboriginal people in the development of resources;
- management by aboriginal nations or communities of certain activities on specified lands, through agreements.

The agreements reached with aboriginal people must respect Québec's territorial integrity and government effectivity over its territory.

2.2.2 Aboriginal institutions and the exercise of contractual jurisdictions

Beyond the debate over the nature of the rights of aboriginal people, acceptable ways must be found for aboriginal people and the Québec government to increase the responsibilities of aboriginal communities.

As part of agreements between the Québec government and aboriginal nations, communities or groups of communities regarding development and assumption of responsibility, Québec proposes the recognition of responsibilities according to a so-called contractual jurisdiction concept.

In general, the responsibilities an aboriginal nation, community or group of communities want to assume are to be defined, as is the applicable area of these activities, the responsibilities of the nation or community and those of the government are to be recorded, mechanisms for assessing the agreement are to be stipulated and, if required, the conditions under which a party can withdraw from the agreement are to be established. Under the agreements, responsibilities and activities will be carried out according to different standards.

The Québec government affirms its willingness to recognize, on a contractual basis, the exercise of responsibilities by aboriginal bodies in a very specific area and according to standards set out by agreement. The contract will also make it possible to recognize aboriginal institutions that would carry out responsibilities which, in the absence of a contract, would be carried out by Québec institutions.

This approach may require legislative or regulatory amendments or the adoption of specific laws. Should no agreement be negotiated or reached, or if one of the parties withdraws from an agreement already reached, Québec exercises its full jurisdiction.

These agreements would not be covered by constitutional protection. However, the provisions relating to the land aspects of a comprehensive land claim agreement will receive constitutional protection.

The necessary harmonization of relations between aboriginal and non-aboriginal people could be achieved in this way.

2.2.3 Legislative and regulatory flexibility

The agreements that will be signed with aboriginal people may require legislative and regulatory amendments in the sectors concerned. The statutes and regulations will be amended, if need be, in particular to give effect to agreements allowing aboriginal people to exercise any responsibilities not stipulated in current legislation.

2.2.4 Harmonious relations

The Québec government intends to encourage conditions for the development of harmonious relations based on respect and mutual trust between aboriginal and non-aboriginal people. Emphasis will be placed on three approaches: information and awareness, regionalization and partnership.

Information and awareness: by teaching the history of aboriginal nations in the schools, particularly at the primary and secondary levels; by supporting cultural exchange initiatives; by supporting the development and dissemination of Amerindian and Inuit cultures; by raising Quebecers' awareness of the cultural, social and economic realities of the Amerindian and Inuit nations in Québec;

Regionalization: through the participation of aboriginal bodies in consultation and local and regional agencies, for instance local development centres, regional development councils, regional environment councils, etc.; by establishing harmonious functional relationships between aboriginal local and regional bodies and non-aboriginal local and regional bodies, particularly regarding development, planning and land use;

Partnership: by reaching partnership agreements between aboriginal and non-aboriginal local bodies, for instance, band councils and municipalities or regional county municipalities, between aboriginal and non-aboriginal contractors and businesses, between aboriginal and non-aboriginal social, economic and cultural agencies such as economic development corporations, community agencies, etc.

Prompted by the same objective of improving the living conditions of their people, aboriginal and non-aboriginal bodies, local as well as regional, have everything to gain by emphasizing concerted action, partnership and greater cooperation to maximize the impact of their respective efforts.

The Québec government encourages these initiatives and is open to joining them and providing support.

2.3 Adapted initiatives to the different situations

The guidelines apply to all aboriginal nations in Québec, whether their population lives in northern villages, on reserves or settlements. Implementation of the proposals in this paper will depend on the four situations of aboriginal people:

- nations that are neither parties to agreements nor in comprehensive land claims negotiations;
- nations party to agreements;
- nations negotiating comprehensive land claims;
- aboriginal people living off-community.

For the last three situations, certain specific features will have to be taken into consideration.

ABORIGINAL NATIONS PARTY TO AGREEMENTS

The guidelines, principles, strategic choices and framework for intervention apply equally to the Inuit, Crees and Naskapis who are already party to agreements. In this context, the major northern agreements, namely the James Bay and Northern Québec Agreement and the Northeastern Québec Agreement continue to underlie the application of government guidelines. Complementary agreements may be signed when necessary, as has been the case since the agreements were signed.

A framework agreement for development and the assumption of responsibility could, in this particular context, include a plan concerning the on-going implementation of commitments under the major agreements as well as new proposals for economic development and self-government.

Sectoral agreements arising from such a framework agreement will spell out, in particular, in what way the measures and actions covered by these agreements give effect to the various commitments under the major agreements.

ABORIGINAL NATIONS NEGOTIATING COMPREHENSIVE LAND CLAIMS

In December 1994, the Québec government tabled a comprehensive offer to the Attikameks and the Montagnais.

There have been many negotiating sessions since then and changes have been made in the negotiating organizations of both the Attikameks and the Montagnais. This claim is submitted under the federal comprehensive land claims policy and the negotiation accordingly is tripartite:

aboriginal people, the Québec government and the federal government.

This negotiation started in 1981. It is proposed that a sustained effort be made to reach an agreement in principle by 1999. Québec will offer the Attikameks and the Montagnais, in parallel with the comprehensive negotiation, the same approach proposed for the other aboriginal nations or communities. In this sense, agreements could be reached with the various nations and communities involved in the comprehensive negotiation, as consensus is achieved on matters such as economic development or self-government. Coordination with discussions at the central negotiation table will be necessary to ensure that the agreements signed can be integrated within the final agreement. The issues of land and compensation, however, will have to be negotiated at the central table.

ABORIGINAL PEOPLE LIVING OFF-COMMUNITY

In 1997, one quarter of the roughly 72 000 aboriginal people in Québec whose status is recognized either according to the Indian registry, or that of the Cree, Inuit and Naskapi beneficiaries were living off-community. In addition to this, there is a population of non-status aboriginal people whose size is not precisely known, but is estimated at between 15 000 and 45 000 depending on the source.

They are represented by general representation agencies such as the Native Alliance of Québec and the Association des Métis et Indiens hors réserve du Québec. Agencies, such as native friendship centres, the Regroupement des centres d'amitié autochtones du Québec, the Québec Native Women's Association and the Native Parajudicial Services of Québec, provide services to them.

Québec has maintained relations with the above-mentioned agencies for more than a decade. These relations are political, administrative and financial.

There are two objectives to government assistance efforts for aboriginal people living off-community:

- improve socio-economic conditions for individuals;
- build bridges between aboriginal people living off-community and Quebecers as a whole.

Québec government assistance will focus on projects that encourage the establishment of effective services to achieve these objectives.

General representation agencies and service agencies will also be invited to set their priorities and clearly define their client groups and objectives. Objectives will have to contribute to improving the socioeconomic conditions of aboriginal people living off-community.

Québec will also work to better respond to the expectations of aboriginal people living in urban areas. This will be achieved through agreements with band councils that want to provide certain services to their members living in towns, or through agreements with agencies representing urban aboriginal people, where such services are not already offered by band councils. These agreements must be easy to implement and avoid duplicating or interfering with responsibilities, programs and services already in place outside aboriginal communities; they must also avoid any escalation or overlapping of costs.

Finally, any agreement reached with a band council must stipulate, if necessary, whether aboriginal people who are band members living off-community are covered by the agreement.



3

INTERVENTION FRAMEWORK: COMPONENTS OF THE ACTION STRATEGY

To give effect to its guidelines and principles, the Québec government proposes:

- a political forum for debate, discussion and concerted action;
- agreements for development and the assumption of responsibility;
- concrete action for economic development and employment development;
- measures leading to greater financial self-sufficiency.

Accordingly, the Québec government's approach focuses on reaching agreements for development and the assumption of responsibility with aboriginal nations or communities and implementing measures to create more favourable conditions for the development of the economy and employment among aboriginal people. This concrete, pragmatic approach will make it possible to meet what the communities see as priority needs and, to some extent, make up lost ground. Together with a more political approach, it should produce tangible results.

The Québec government favours a sharing of wealth and more specifically encourages aboriginal people and their communities to make up lost ground in socio-economic terms. To that end, it proposes an approach encouraging fair development and greater responsibility for each aboriginal community or group of communities. The political autonomy claimed by aboriginal people is to a large degree tied to financial self-sufficiency. Hence, aboriginal people must participate in Québec's economic development.

3.1 Establishing a political forum

3.1.1 Objectives

The Québec government is aware that negotiating agreements for development and the assumption of responsibility will not settle all concerns of a political nature. That is why it is proposed that a bipartite commission be formed for the creation of a political forum where important issues for aboriginal people and the government could be discussed. If aboriginal leaders agree to the establishment of such a forum, it would help advance the political debate concerning aboriginal people in Québec, by affording direct contacts between aboriginal and non-aboriginal elected officials. This forum would be formed as part of existing Québec institutions.

3.1.2 Proposed approach

The Québec government proposes that a bipartite commission be set up to design a forum for political discussion between aboriginal and non-aboriginal elected officials.

3.2 Agreements for development and assumption of responsibility

3.2.1 Objectives

The objectives of agreements for development and assumption of responsibility will be:

- greater autonomy for aboriginal communities through assumption of responsibility in various socioeconomic sectors, through taking charge and carrying out of government responsibilities over determined territories;
- greater participation of aboriginal communities in economic and community development by setting development objectives, adapting the application of government policies, changing existing programs or introducing new measures for aboriginal people or aboriginal businesses.

3.2.2 Proposed dynamic

Two types of agreements are proposed to achieve these objectives: framework agreements and sectoral or multi-sectoral agreements. Either aboriginal people or the Québec government can take the initiative to negotiate these types of agreements.

An agreement would in particular make contractual jurisdictions possible. The agreement could also cover aboriginal institutions which could carry out responsibilities which, in the absence of an agreement, come within the authority of Québec institutions. The agreement would demonstrate openness; if necessary, it would lead to amendments to Québec laws and regulations to reflect undertakings given and to the adaptation of the regulatory and legislative framework to aboriginal practice, if agreement is reached.

The agreements will be bipartite between the Québec government and aboriginal people but the federal government will be invited to sign under its current obligations and powers. In addition, it will also be invited to participate in funding the implementation of these agreements, through the aboriginal development fund described in section 3.3.

Should no agreement be negotiated or reached, or if one of the parties withdraws from an agreement, Québec will exercise its authority.

All agreements to which the federal government is party must also be signed by the Minister for Canadian Intergovernmental Affairs.

FRAMEWORK AGREEMENTS

The framework agreement may include a development plan or implementation plan for agreements, as well as the identification of sectoral agreements to be negotiated. The development or implementation plan will be formulated by aboriginal nations, communities or groups of communities which will pinpoint their priorities and draw up a list of sectoral or multi-sectoral agreements to be negotiated and agreements to be renewed. The framework agreement will also set out mechanisms to monitor the actions arising from the framework agreement.

Each framework agreement will be formulated in concert by the aboriginal nations or communities and the government departments or agencies concerned, coordinated by the Secrétariat aux affaires autochtones. It will be signed by the Minister responsible for Native Affairs, on behalf of the government and by authorized aboriginal representatives. Implementation will extend over five years, and certain agreements stemming from the framework agreements will not have a fixed expiration.

The priorities set out in the framework agreements signed by the Québec government and aboriginal nations, communities or groups of communities must be included in the annual programming of each department concerned.

SECTORAL AND MULTI-SECTORAL AGREEMENTS

Each sectoral agreement, whether concerning education, justice or another sector, is negotiated by the department and, if necessary, by government agencies in cooperation with the Secrétariat aux affaires autochtones. These agreements are signed by the minister concerned, the Minister responsible for Native Affairs, the authorized aboriginal representatives and, if necessary, the federal government.

Each multi-sectoral agreement is negotiated by the departments and agencies concerned, under the coordination of the Secrétariat aux affaires autochtones. These agreements are signed by the ministers concerned, by the Minister responsible for Native Affairs as the minister responsible for coordination of the implementation of the agreements, by the authorized aboriginal representatives and, if necessary, by the federal government.

3.2.3 Implementation of agreements

The Secrétariat aux affaires autochtones will be responsible for implementing the framework agreements. Government departments and agencies will provide the necessary cooperation.

For the implementation of sectoral or multi-sectoral agreements, the government departments or agencies concerned will be responsible and the Secrétariat aux affaires autochtones will provide the necessary cooperation.

Like the model suggested for local and regional development, it is proposed that integrated budget envelopes be formed with financial resources from various departments for the implementation of multi-sectoral agreements. In this way, optimal use will be made of assistance and support from many departments and agencies.

The amounts needed to implement the agreements will be taken from the departments' regular budgets and the development fund for aboriginal people.

The structure of the framework agreements or the sectoral or multi-sectoral agreements will be adapted to each particular context. Normally, the agreements will include the following items:

- objectives;
- parties to the agreement;
- beneficiaries of the agreement;
- the roles and responsibilities of each party;
- the aboriginal institutions recognized for carrying out responsibilities;
- activities covered;
- the territory covered by these activities;
- financing provisions, if necessary;
- established standards;
- those authorized for the implementation of the agreement;
- mechanisms for assessing the agreement;
- conditions for withdrawal from the agreement by any of the parties;
- liaison committee.

Transitional measures will have to be stipulated in the following cases:

- renewal of agreements;
- the period preceding adoption of legislative or regulatory amendments stemming from the conclusion of agreements;
- implementation of agreements over time.

3.3

A development fund for aboriginal people

Québec proposes that a development fund for aboriginal people in Québec be set up for five years, financed by the Québec government, the federal government and aboriginal bodies in Québec. The size of the fund must reflect both the needs expressed and the budget capacities of the Québec government, the federal government and aboriginal bodies. The fund will consist of two sections:

- one section to support aboriginal economic development initiatives (assistance for aboriginal entrepreneurship, creation of aboriginal businesses and job development);
- one section for community infrastructure projects.

In no case may the fund be used to finance expenditures on a recurring basis.

3.3.1 Objectives

The fund's objectives are to:

- set up conditions conducive to the economic development of aboriginal nations or communities;
- provide conditions to increase the number of aboriginal entrepreneurs;
- build an approach to economic development culturally adapted to aboriginal values;
- complete certain infrastructure developments and carry out certain undertakings with aboriginal nations that have already signed an agreement, in concert with the federal government;
- bring the development of community infrastructures up to date, with a view to sharing the wealth;
- have communities assume responsibilities and provide them with support in setting priorities;
- promote job creation, particularly for young people.

3.3.2 Economic development

In support of the partnership approach, advocated at the 1996 Summit Conference on the Economy and Employment, it is proposed that an economic development vehicle be created and implemented which would receive funding from the Québec government, the federal government, aboriginal bodies, possibly the Fonds de solidarité du Québec and its network or financial institutions.

This vehicle could:

- directly support aboriginal economic development projects;
- contribute to setting up local funds by community, group of communities or by nation. In the latter case, it could be modeled on local investment and job creation corporations set up with regional county municipalities.

The vehicle could provide grants, loans or loan guarantees to support aboriginal economic development projects on reserves, off-reserve or in northern villages, either with or without non-aboriginal partners.

3.3.3 Community infrastructure development

Many aboriginal communities in Québec have pressing needs in terms of development of basic community infrastructures such as daycare facilities, youth centres, centres for senior citizens, multi-purpose community centres, buildings and equipment for public security and justice, local water supply, sewage or road infrastructures, etc. These needs exist just as much in nations that signed agreements and those negotiating comprehensive land claims as in other nations.

These needs should always be met primarily by regular federal government programs and, in some cases, by regular Québec government programs. However, it appears that the regular programs cannot deal with certain pressing needs.

The community infrastructure development section of the development fund for aboriginal people would deal with these needs, by completing the regular programs. In addition, it would have an economic impact: it will help create jobs in the communities and is compatible with Québec's initiative for the development of the social economy.

The monetary contribution of the Québec government or the federal government for each project could cover all or part of the costs of the particular project, provided that at the end of each budget year, the total amounts invested by the Québec government and the federal government for all the projects are equivalent. In addition, though it is a financial participant in

this community aspect, Québec does not intend to replace the federal government in this area. Neither is it Québec's intention that its financial commitment reduce that of the federal government which must continue to fulfill its fiduciary obligations. In this sense, Québec's role in the development of community infrastructures must be clearly seen as an addition that complements the federal government's fiduciary role.

Aboriginal bodies have previously contributed to the infrastructure program. Tripartite financing and management are accordingly possible and desirable for the community infrastructure development section. Community projects would be funded by grants.

This section does not relieve government departments and agencies of their obligation to invest available funds in existing programs, for various aboriginal projects.

3.4

Towards greater financial self-sufficiency

3.4.1 Objectives

The Québec government's guidelines target greater financial self-sufficiency of aboriginal communities. To achieve this, it wants to:

- enable aboriginal people to acquire economic levers and reduce their dependence on governments;
- provide aboriginal communities with leeway so that they can carry out projects that reflect their priorities;
- ensure that the implementation of these measures coincides with the time frame for the application of the aboriginal development fund, i.e., five years;
- increase financial self-sufficiency which is closely linked to self-government, notably by developing financing resources specific to aboriginal governments.

To begin detailing this last objective, the following points examine certain potential revenue sources. Of course, there are other possibilities, such as the property tax, occupation of the tax field that corresponds to the tax exemption relating to income tax, an agreement on sharing of tax revenue, direct user fees, loans, etc.

3.4.2 Participation in economic and resource development

By taking charge of greater responsibilities, aboriginal nations and communities will participate more extensively in economic development as partners. Various models concerning participation in economic and natural resource development can be considered concerning, for instance, forests, wildlife, mines and hydroelectricity. Economic development also includes the large tourism sector and its various divisions (outfitting operations, leisure tourism, cultural tourism, adventure tourism, etc.). These economic development initiatives must be consistent with the local and regional development of Québec's regions. This increased involvement in economic development will require setting up or developing community-owned, individual or mixed businesses.

Québec is prepared to encourage development of these three types of businesses, by providing support and transferring expertise. In addition, supporting the establishment of business partnerships is a high priority with a view to acquiring skills and techniques concerning both operations and management.

Aboriginal people will have to emphasize conditions for the development of an entrepreneurial spirit in aboriginal communities and encourage the development of relations with other Québec businesses. The Québec government intends to support them.

Recent examples in the forestry, mining and energy sectors provide concrete illustrations of this approach. In the forestry sector, the start-up of the sawmill in Waswanipi is a striking example of new ways of doing things.

Furthermore, the Québec government decided, in March 1997, to set up an aboriginal mining fund modeled on the concerted action and partnership of the regional mining funds. This fund, intended specifically for the development of partnership with aboriginal communities, is designed to create the conditions for associating them with the development of the mining industry in the Mid and Far North.

Lastly, in 1996, the Québec government adopted an energy policy designed, among other things, to encourage the participation of aboriginal people in hydroelectric development projects.

3.4.3 Taxation and aboriginal people

The current tax system as it applies to the aboriginal community contains a number of special features. Accordingly, the federal Indian Act includes a tax exemption for the property of an Indian or of a band situated on a reserve. The exemptions apply only to registered Indians recognized by the federal government, which excludes aboriginal people whose status is not recognized by the federal government and the Inuit.

As a result of the nature of the various taxes, the exemption applies in various ways. Accordingly, the system put in place for the GST and the QST is not the same as for the tobacco tax or the fuel tax. In simplified terms, the current system is as follows:

- the property of a registered Indian under federal law, purchased or delivered on a reserve, are exempt from GST and QST;
- purchases of tobacco on a reserve by a registered Indian are not subject to the tax applicable on this product;
- fuel is not affected by the specific tax on fuel, if purchased on a reserve by a registered Indian residing on a reserve;
- the income of a registered Indian residing on a reserve and earned on a reserve is not taxable;
- in other cases, taxes apply.

Stemming in part from the current situation, the problem of taxation regarding aboriginal people involves the following main aspects:

- under the current tax system, there is a lack of sources of tax revenue specific to aboriginal governments which would financially commit their population and increase their financial self-sufficiency. Currently, aboriginal bodies depend on federal and Québec public funds;
- originally, the tax exemptions described above were used to protect the land and property of aboriginal people. However, the current system is complex for Indians entitled to it, for merchants, employers and the tax collector;
- in addition, the application of these exemptions, together with other provisions of the tax systems, allows certain aboriginal and non-aboriginal individuals to benefit unduly, through tax fraud. These actions by a minority exacerbate other problems and fuel prejudices regarding aboriginal people as a whole; these prejudices hamper the development of good relations between aboriginal and non-aboriginal people.

As a particular component of the general situation, some costs borne by the residents of Nunavik are higher than for residents of southern Québec because of geographical isolation and the rigors of the climate. The current tax system makes allowance for this in the income tax with a deduction for remote regions. However, the representatives of Nunavik consider the deduction insufficient and of no help to low-income households.

Québec considers it both possible and desirable, as part of a partnership with band councils, that the problems associated with the application of the tax exemption be resolved. The new mechanisms could also provide aboriginal communities with significant levers to increase their financial self-sufficiency, while ensuring that the new tax system does not create competition considered unfair by either side which could hinder relations between aboriginal and non-aboriginal communities.

To do so, the way in which the current tax exemption is applied would have to be transformed, while ensuring that the aboriginal communities which want to be part of a partnership approach can retain the proceeds to be used for the benefit of their community.

Québec intends to approach this issue pragmatically, flexibly and adaptively, through local agreements on taxation regarding aboriginal people. For instance, these agreements could embody the following items:

- full payment of the taxes concerned, by aboriginal and non-aboriginal people, on and off-reserve;
- remittance to aboriginal communities of taxes paid according to terms and conditions to be decided in the agreement.

Starting with these parameters, it should be possible to define procedures which will respect the pace and special features of aboriginal communities while maintaining the integrity of the federal and Québec tax systems.

The communities will make their own decisions as to the allocation of these amounts, which could be paid in whole or in part to aboriginal consumers, with the portion possibly withheld by the band allocated to economic development projects and community activities.

General implementation conditions are as follows:

- band councils will be invited to choose these options on a voluntary basis;
- legislative, regulatory and administrative changes will be required of both the federal government and the Québec government to implement these approaches.

They will be implemented through agreements which will stipulate the application details and the support aboriginal communities are to receive.

Turning to Nunavik, the work initiated in 1993 should be continued to resolve, with appropriate measures, the tax problems specific to this region.



4 IMPLEMENTATION

4.1

The Secrétariat aux affaires autochtones: a point of entry for aboriginal people

The Secrétariat aux affaires autochtones coordinates the implementation of the measures stemming from the government guidelines. It does so in close cooperation with various government departments and agencies. Aboriginal people can approach the Secrétariat aux affaires autochtones at any time, and it will put them in touch with the government representatives concerned in cases where a direct relation with them is needed.

Government departments and agencies continue to play an important role. They continue to assume their responsibilities in their respective field and, with their expertise, contribute to the implementation of government guidelines. In this sense, they work to establish direct relations with aboriginal people to promote a more informed dialogue and mutual understanding of the issues and solutions.

The Secrétariat aux affaires autochtones ensures that the various activities converge through a government coordination mechanism.

The existing mandate of the Secrétariat aux affaires autochtones consists in:

- coordinating the activities of government departments and agencies in aboriginal communities;
- being responsible for formulating government policy for application in Amerindian and Inuit communities;
- providing aboriginal people with general information and making Quebecers aware of relevant government policies;
- leading the negotiation of comprehensive agreements in cooperation with the departments concerned, advising departments in the negotiation of sectoral agreements and overseeing the implementation of agreements that have been reached.

4.2

A government coordination mechanism

Designated coordinators in the various departments and agencies expressly deal with issues concerning aboriginal people. They are the primary respondents in their department concerning aboriginal issues. They support the Secrétariat aux affaires autochtones in the implementation of government guidelines and in its action with various administrative, central and regional bodies. They also take part in negotiating agreements for development and greater responsibility.

The Secrétariat aux affaires autochtones brings the aboriginal affairs coordinators together on a regular basis to ensure that government action is more consistent. When needed, it participates in regional administrative conferences concerned by aboriginal issues.

