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## **Section 23 Environment and Future Development North of the 55th Parallel**

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### 23.1 Definitions

For the purposes of this Section:

23.1.1 "Development" or "Development Project" shall mean a project consisting of any work, undertaking, structure, operation or industrial process which might affect the environment or people of the Region, exclusive of the operation and maintenance of such project after construction. However, the planned operation of such project shall form part of the considerations in the assessment and review procedures provided for in this Section;

23.1.2 In the case of matters respecting federal jurisdiction, "Administrator" or "Federal Administrator" means the Federal Minister of Environment or any other person or persons authorized from time to time by the Governor in Council to exercise functions described in this Section ;

23.1.3 "Impact assessment" or "assessment" means that, part of the process consisting of studies by which developments are subject to varying degrees of identification, description, and evaluation in order to determine the beneficial and adverse effect of such developments and their alternatives on the environment and the people;

23.1.4 "Impact statement" or "statement" means the report prepared by the proponent in accordance with this Section ;

23.1.5 "Proponent" means a person responsible and duly mandated to carry out an impact statement required pursuant to this Section and for the execution of the development;

23.1.6 In the case of matters respecting provincial jurisdiction, "Administrator" or "Québec Administrator" means the director of the Québec Environmental Protection Service or his successor, or any person or persons authorized from time to time by the Lieutenant-Governor in Council to exercise functions described in this Section;

23.1.7 "Québec Minister" means the Québec minister responsible for the protection of the environment ;

23.1.8 "Region" means the area in Québec north of the 55th parallel of latitude, excluding Category 1 lands and Category II lands of the Crees of Great Whale.

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### **23.2 General Provisions**

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23.2.1 The environmental and social protection regime applicable in the Region shall be established by and in accordance with the provisions of this Section.

23.2.2 The said regime provides for:

- a) A procedure whereby environmental and social laws and regulations and land use regulations may from time to time be adopted if necessary to minimize the negative impact of development in or affecting the Region upon the Native people and the wildlife resources of the Region;
- b) An environmental and social impact assessment and review procedure established to minimize the negative environmental and social impact of development on the Native people and the wildlife resources of the Region;
- c) A special status and involvement for the Native people and the other inhabitants of the Region over and above that provided for in procedures involving the general public through consultation or representative mechanisms wherever such is necessary to protect or give effect to the rights and guarantees in favor of the Native people established by and in accordance with the Agreement;
- d) The protection of the rights and guarantees of the Native people established by and in accordance with Section 24;
- e) The protection of the Native people, their economies and the wildlife resources upon which they depend;
- f) The right to develop in the Region.

23.2.3 All applicable federal and provincial laws of general application respecting environmental and social protection shall apply in the Region to the extent that they are not inconsistent with the provisions of the Agreement and in particular of this Section. If necessary to give effect to this Section of the Agreement, Québec and Canada shall take the required measures to adopt suitable legislation and regulations for such purpose.

23.2.4 The concerned responsible governments and the agencies created in virtue of this Section shall within the limits of their respective jurisdictions or functions, as the case may be, give due consideration to the following guiding principles:

- a) The protection of Native people, societies, communities and economies, with respect to developmental activity affecting the Region;
- b) The environmental and social protection regime with respect to minimizing the impacts on the Native people by developmental activity affecting the region;
- c) The protection of the hunting, fishing and trapping rights of Native people in the Region and their other rights therein with respect to developmental activity affecting the Region;
- d) The protection of wildlife resources, physical and biotec environment, and ecological systems in the Region with respect to developmental activity affecting the Region ;
- e) The involvement of the Native people and other inhabitants of the Region in the application of this regime ;
- f) The rights and interests of non-Native people, whatever they may be ;

- g) The right to develop, in accordance with the provision of the Agreement, by persons acting lawfully in the Region ;
- h) The minimizing of negative environmental and social impacts of development on Native people and non-Native people and on Native and non-Native communities by reasonable means with special reference to those measures proposed, recommended or determined by the impact assessment and review procedures.

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### **23.3 Provincial Environmental and Social Impact Assessment and review**

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23.3.1 The Environmental Quality Commission (hereinafter referred to as the EQC) is hereby established.

23.3.2 The EQC shall be the preferential and official body responsible as provided herein for participation in the administration and supervision of the environmental and social impact assessment process in the Region with respect to matters and to development projects within provincial jurisdiction.

23.3.3 The EQC shall have nine (9) members. Four (4) members shall be appointed by the Kativik Regional Government referred to in Section 13 (hereinafter referred to as the «Regional Government»), of whom at least two (2) shall be Inuit resident in the Region, or their duly authorized representatives, and four (4) members shall be appointed by Québec.

In addition, a chairman shall be appointed by Québec which person must be acceptable to the Regional Government. All members shall have one vote save for the chairman who shall only vote in the case of a deadlock.

23.3.4 The members shall be appointed and replaced from time to time by the respective appointing parties.

23.3.5 The quorum for any EQC meeting shall be five (5) members physically present of whom at least two (2) be Regional Government appointees and at least two (2) shall be Québec appointees.

23.3.6 Québec shall maintain and adequately fund the EQC and its staff in order to properly carry out its responsibilities subject to approval of the budget for same. Salaries and expenses of the members of the EQC shall be the responsibility of the parties appointing them. The staff shall be responsible to and under the direction and control of the EQC.

23.3.7 The members may on approval of the EQC consult and retain the services of experts as they deem necessary, subject to budget approval for same.

23.3.8 A record of all decisions of the EQC and all data related thereto shall be retained and made available at its principal office.

23.3.9 All decisions of the EQC shall be decided by a majority of the votes cast at any meeting.

23.3.10 The EQC shall have a principal office within the Province of Québec and may establish other offices within the said Province.

23.3.11 The EQC may establish and adopt rules regulating its internal operations and governing its involvement in the assessment process pursuant to its functions, and such rules shall be subject to the approval of the parties naming the members of the Commission.

23.3.12 All developments listed in Schedule 1 shall automatically be subject to the impact assessment and review procedures provided for herein.

The list of developments in Schedule 1 shall be reviewed by Québec and the Regional Government every five (5) years and may be updated or modified by mutual consent of the parties as may be necessary in the light of technological changes and experience with the assessment and review process.

23.3.13 The developments listed in Schedule 2 shall not be subject to an assessment or review.

The list of developments in Schedule 2 shall be reviewed by Québec and the Regional Government every five (5) years and may be updated or modified by mutual consent of the parties as may be necessary in the light of technological changes and experience with the assessment and review process.

23.3.14 All developments not subject to paragraph 23.3.12 or 23.3.13 shall be screened by the ECQ for a determination as to whether or not they shall be subject to the assessment and review process. In this regard, the decision of the EQC is final, subject to paragraph 23.3.24.

23.3.15 Whatever other types of approvals, licenses, or permits that may be obtained in relation to a development subject to the assessment and review process, such development may not proceed until the conditions of this Section pursuant to such process have been complied with.

If a development is subject to the assessment and review process then the process must be completed and a decision made as to whether or not and upon what terms the development should proceed before any government funds or loans are given save if the Minister responsible for such funds or loans decides otherwise.

However, these restrictions shall not prevent the proponent from obtaining approvals, loans or other funds or guarantees in relation to a feasibility study, including research, or in relation to any matter necessary to comply with the assessment and review process before the development has been approved to proceed.

23.3.16 Impact assessment by the proponent and review procedures by the EQC shall be carried out at the earliest practicable point in time.

23.3.17 The EQC shall make recommendations to the Québec Administrator regarding the contents of any impact statement to be submitted by any proponent pursuant to this Section. The Québec Administrator shall decide on such contents based upon the guidelines set forth in Schedule 3 of this Section and other relevant factors and advise the proponent accordingly.

23.3.18 The Québec Administrator shall determine whether or not an impact statement is adequate and may require the proponent to provide further information and undertake further studies.

23.3.19 The EQC shall take into account, but shall not be limited to, when evaluating or assessing each impact statement, the following considerations and shall give in its discretion such weight to each consideration as it deems appropriate:

- a) The environmental and social impact of the development both beneficial and adverse;
- b) Environmental adversities which cannot be avoided through present technological means and environmental adversities which were chosen not to be fully abated and the proponent's proposals to counterbalance such adversities;
- c) Reasonable measures available to avoid or minimize adverse effects or to enhance beneficial effects;
- d) Reasonable alternatives to the development as proposed and when appropriate reasonable alternatives to the proposed development;
- e) The methods and procedures outlined by the proponent to adequately monitor emissions of contaminants or other environmental problems, where required;
- f) Relationship of the proposed development to applicable existing or proposed environmental laws and regulations;
- g) The methods or procedures outlined by the proponent to be put into effect in the event of accidents.

23.3.20 The EQC shall, taking into account the above guiding principles, decide whether or not a development may be allowed to proceed by the Québec administrator and what conditions, if any, shall accompany such approval or refusal.

23.3.21 The decision of the EQC pursuant to paragraph 23.3.20 shall be transmitted to the Québec Minister and to the Québec Administrator. The Québec Administrator if he accepts the decision of the EQC shall put it into force. If the Québec Administrator does not accept the decision of the EQC, he may only modify it, change it or decide otherwise with the prior approval of the Québec Minister.

23.3.22 The final decision of the Québec Administrator pursuant to paragraph 23.3.21 shall be transmitted to the proponent, the EQC, the Québec Minister and the appropriate official of the Regional government.

23.3.23 Subject to paragraph 23.3.24, the decision taken pursuant to paragraph 23.3.21 shall bind the proponent who shall respect and give effect to such decision.

23.3.24 The Lieutenant-Governor in Council may for cause authorize a development which has not been authorized pursuant to paragraph 23.3.21 or alter the terms and conditions established therefor or exempt a specific development permanently or temporarily from the application of the impact assessment procedure or any part thereof where he deems it necessary in the public interest.

23.3.25 Upon compliance by the proponent with the provisions of paragraph 23.3.17 and 23.3.18, the EQC shall render a decision:

- a) Within ninety (90) days for developments contemplated by paragraph 23.3.12;
- b) Within 45 days for developments contemplated by paragraph 23.3.14. The Québec Administrator may extend the periods specified in a) and b) when such extension is justified by the nature or extent of the development.

23.3.26 At any time prior to the decision under paragraph 23.3.21, the proponent shall bring to the attention of the EQC any errors, inadequacies, inconsistencies or new circumstances which are likely to cause a significant negative impact and which were not given due consideration in the impact statement.

23.3.27 interested persons, groups or communities may submit written representations to the EQC with respect to any development and the EQC, at its discretion, may invite interested persons, groups or communities to make representations to the EQC with respect to any development.

23.3.28 The EQC shall be entitled to receive information ordinarily available from the responsible government departments and agencies concerning activities in or affecting the Region, useful or necessary to the pursuit of the objects of the EQC.

23.3.29 Any permits, licenses or approvals issued by the responsible government department shall not be construed as an exemption from the final decision referred to in paragraph 23.3.21.

23.3.30 The Québec Administrator, in collaboration when necessary with the EQC, shall ensure that the plans and specifications for construction of the development and the operation thereof conform to the terms and conditions, if any, established by the assessment process.

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#### **23.4 Federal Environmental and Social Impact Assessment and Review**

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23.4.1 All developments or development projects in the Region, subject to federal jurisdiction, including those of Canada, its agencies and those acting on their behalf, shall be subject to the federal impact assessment process in accordance with the provisions of this Sub-Section except when, in the opinion of the federal administrator, the same assessment process provides for Native involvement to at least the degree provided in this Section, or when the provisions of paragraph 23.7.5 are applied.

23.4.2 There is established a Screening Committee (hereinafter called the "Screening Committee"), an advisory body, which shall be under the administrative supervision of the Review Panel, referred to in 23.4.1 1. The Screening Committee shall have four (4) members. Canada and the Regional Government shall each appoint two (2) members. The remuneration of a member shall be paid for by the body that appoints such member.

23.4.3 All developments contemplated by paragraph 23.4.1 other than those listed in Schedule 1 and Schedule II shall be screened by the Screening Committee of the Review Panel.

23.4.4 The members of the Screening Committee shall each have one (1) vote.

23.4.5 A Chairman shall be appointed from among their appointees in the following manner:

- a) In the first year of the operations of the Screening Committee, the Chairman shall be appointed by the Regional Government ;
- b) In the second year of the operations of the Screening Committee, the Chairman shall be appointed by Canada;
- c) In subsequent years the appointment of the Chairman of the Screening Committee shall take place in the sequence set forth in sub-paragraphs a) and b) of this paragraph

23.4.6 The Chairman of the Screening Committee, who shall hold office for one (1) year, shall have a second and deciding vote.

23.4.7 The Administrator shall in all cases contemplated by this Sub-Section consult with and take into consideration the advice of the Screening Committee.

23.4.8 In the case of all developments subject to screening pursuant to paragraph 23.4.3, the Screening Committee shall recommend to the Federal Administrator whether or not a preliminary and/or a final impact statement should be done by the proponent and if required, the extent of such impact assessment and review.

23.4.9 The Federal Administrator shall, consistent with the provisions of this Section, and after considering among other possible factors the said recommendations, decide as the case may be, whether or not an assessment and review shall be required and/or the nature and extent of such assessment and review. In the event that the Federal Administrator cannot accept the recommendations of the Screening Committee or wishes to modify such recommendations he shall, before deciding, consult with the Screening Committee so as to explain his position and discuss same before formally informing the proponent or taking action thereon.

23.4.10 The Federal Administrator shall transmit his decision to the interested regional authorities and the recommendations of the Screening Committee shall be made available to the Regional Government through their representatives on the Screening Committee.

23.4.11 The Environmental and Social Impact Review Panel (hereinafter referred to as the "Review Panel") shall be the review body for all developments contemplated in paragraph 23.4.1.

23.4.12 The Review Panel shall be composed of three members appointed by Canada and two members appointed by the Regina Government, which latter members must be Native people or their duly authorized representatives. The Chairman shall be appointed by Canada.

The size of the Review Panel may be altered from time to time at the discretion of the Federal Administrator provided that the same proportion of representation for Canada and the Regional Government is retained.

The Review Panel shall be provided with an adequate staff to fulfill its functions and such staff shall be maintained and funded by Canada. The remuneration of a member of the Review Panel and his expenses shall be paid for by the body which appoints such member. However, the expenses of the members appointed by the Regional Government or their duly authorized representatives on such panel shall be borne by the secretariat of the Advisory Committee referred to in this Section.

- 23.4.13 Native people, or their duly authorized representatives, who are members of the Environmental Quality Commission may be appointed by the Regional Government to the Review Panel.
- 23.4.14 The Review Panel shall review all projects contemplated in 23.4.1 and listed in Schedule 1 in accordance with the applicable provisions of this Section, and all development or development projects referred to it by the Federal Administrator.
- 23.4.15 The proponents of all developments or development projects contemplated in paragraph 23.4.1 which are listed in Schedule 1 shall submit impact statements to the Environmental and Social Impact Review Panel.
- 23.4.16 The proponent shall prepare a statement of Environmental and Social Impact which shall include any requirements pursuant to paragraph 23-4.9 and/or specific guidelines issued by the Review Panel, and requirements pursuant to any applicable laws and regulations and, where and if deemed advisable by the Review Panel, any of the elements referred to in Schedule III.
- 23.4.17 The Native people and the communities, through the Regional Government may make written representations to the proponent respecting proposed development and may submit written representations to the Review Panel.
- 23.4.18 The proponent shall submit its impact statement to the Federal Administrator, who shall forthwith transmit it to the Review Panel.
- 23.4.19 The Review Panel shall transmit such impact statement to the Regional Government. Such information or portion thereof may, by exception, be ordered withheld by the responsible Minister for reasons of national defence, national security or other justified reasons.
- 23.4.20 The interested persons, groups or communities by themselves or through their Regional Government may make representations to the Review Panel. Such representations may be in written form or where appropriate in oral form. This paragraph shall not be construed as limiting the right of the responsible Federal Administrator to authorize more extensive representations.
- 23.4.21 On the basis of the said impact statement and other information before it, the Review Panel shall recommend whether or not the development should proceed and, if so, under what terms and conditions including, if appropriate, preventive or remedial measures, or whether the development should be subject to further assessment and review and, if so, the data or information required.
- 23.4.22 The recommendations of the Review Panel shall be transmitted to the Federal Administrator.
- 23.4.23 The Federal Administrator, consistent with the provisions of this Section and after considering among other possible factors the recommendations Of the Review Panel shall:
- a) In the case of an impact statement at a preliminary stage prepared pursuant to this Section or in the case of an inadequate statement, advise the proponent respecting the alternatives submitted or, further assessment required or,

b) b) In the case of an impact statement submitted at a stage where a final decision may be made, decide whether or not, on the basis of the environmental and social impact considerations, the development should proceed and if so, upon what terms and conditions, including if appropriate, preventive or remedial measures.

23.4.24 If pursuant to paragraph 23.4.23 the Federal Administrator so decides, the proposed development shall be subject to further impact assessment and review which may include the same information requirements, specifications for impact statements and procedures as are specified herein.

23.4.25 If the Federal Administrator is unwilling or unable to accept any recommendations of the Review Panel or wishes to modify such recommendations he shall, before deciding or, as the case may be, advising the proponent consult with the Review Panel to explain his position and discuss such position with the Review Panel.

23.4.26 The decision of the Administrator shall be transmitted to the proponent.

23.4.27 The decision of the Administrator as to whether or not the development should proceed and if so under what terms and conditions shall bind the proponent who shall respect and give effect to such decision.

23.4.28 If the proposed development is approved in accordance with the provisions of this Section, the proponent shall before proceeding with the work, obtain where applicable the necessary authorization or permits from responsible Government Departments and Services. The Regional Government shall be informed of the decision of the Federal Administrator.

23.4.29 The Governor in Council may for cause authorize a development which has not been authorized pursuant to this Section or alter the terms and conditions established by the Federal Administrator pursuant to this Section

23.4.30 In the event that a proposed development not authorized to proceed pursuant to this Section is subsequently approved by the Governor in Council, or in the event that the Governor in Council alters the terms and conditions established by the Federal Administrator, the Federal Administrator after consulting with the Review Panel may recommend to the Governor in Council the necessary environmental and social protection measures which should be respected by the proponent.

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## **23.5 Environmental Advisory Committee**

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23.5.1 An Environmental Advisory Committee (hereinafter referred to as the "Advisory Committee"), a body made up of members appointed by the Regional Government, Canada and Québec is established.

23.5.2 The Advisory Committee shall have nine members. The Regional Government, Québec and Canada shall each appoint three members.

23.5.3 Such members shall be appointed and replaced from time to time at the discretion of the respective appointing party. The appointing parties may upon unanimous consent increase or decrease the membership of the Advisory Committee.

23.5.4 The members of the Advisory Committee shall each have one (1) vote except as hereinafter provided otherwise.

- a) When matters of exclusive provincial jurisdiction are being dealt with by the Advisory Committee, the members appointed by Canada shall not vote;
- b) When matters of exclusive federal jurisdiction are being dealt with by the Advisory Committee, the members appointed by Québec shall not vote;
- c) When matters of joint or mixed federal and provincial jurisdiction are being dealt with by the Advisory Committee, the members appointed by Québec and Canada shall each have one (1) vote and the members appointed by the Regional Government shall each have two (2) votes.

23.5.5 The respective parties shall appoint a Chairman and Vice-Chairman of the Advisory Committee from among their appointees in the following manner:

- a) In the first year of the operation of the Advisory Committee, the Chairman shall be appointed by Québec and the Vice-Chairman shall be appointed by Canada;
- b) In the second year of the operation of the Advisory Committee, the Chairman and Vice-Chairman shall be appointed by the Regional Government;
- c) In the third year of the operation of the Advisory Committee, the Chairman shall be appointed by Canada and the Vice-Chairman shall be appointed by Québec;
- d) In the fourth year of the operation of the Advisory Committee, the Chairman and Vice-Chairman shall be appointed as provided in b),
- e) In subsequent years, the appointment of the Chairman and Vice-Chairman of the Advisory Committee shall take place in the sequence set forth in sub-paragraphs a), b), c) and d) of this paragraph;
- f) In the absence of the Chairman at any meeting, an alternate Chairman shall be selected by and from among the members appointed by the party that appointed the Chairman;
- g) The Vice-Chairman shall act as Chairman only when the Chairman does not have the right to vote pursuant to paragraph 23.5.4.

23.5.6 The Chairman and Vice-Chairman shall hold office for one (1) year.

23.5.7 The Advisory Committee may, from time to time, select from among its members such other officers as may be required to enable the Committee to fulfill its role and functions.

23.5.8 When matters of exclusive provincial jurisdiction or exclusive federal jurisdiction are being discussed, a quorum shall be four (4) members physically present provided that at least one (1) member appointed by each party whose members are entitled to vote is physically present.

23.5.9 When matters of joint provincial and federal jurisdiction are being discussed, a quorum shall be six (6) provided at least one (1) member appointed by each party is physically present.

23.5.10 The quorums mentioned in the preceding paragraph 23.5.8 and 23.5.9 may from time to time be changed with the unanimous consent of all members of the Advisory Committee.

23.5.11 A member of the Advisory Committee shall upon his appointment execute a written proxy in the form provided by the Advisory Committee in favor of the other members, including their replacements, appointed by the party that appointed the member executing the proxy. The holder of such a proxy shall have the right to vote and otherwise act in the place of the absent member from whom the proxy has been obtained, in addition to the voting and other rights that the member holding the proxy is entitled to exercise in his own right.

23.5.12 All decisions shall be decided by a majority of the votes cast.

23.5.13 The Chairman shall have, in the case of a tie vote, a second and deciding vote.

23.5.14 The Advisory Committee shall have principal office within the Province of Québec, and may establish other offices within the said Province.

23.5.15 The Advisory Committee may establish and adopt by-laws regulating its own internal operations, including notice and place of meetings and other matters relating to the administration of the Advisory Committee. All members of the Advisory Committee shall be entitled to vote on such by-laws which shall be subject to the approval of each party to the Advisory

23.5.16 The Advisory Committee shall meet at least four (4) times annually.

23.5.17 The Chairman of the Advisory Committee shall convoke a special meeting of the Advisory Committee within twenty (20) days of receipt from any three (3) members of the Advisory Committee of a written request indicating the purpose of such meeting.

23.5.18 The Chairman or Vice-Chairman, as the case may be, shall preside over meetings of the Advisory Committee.

23.5.19 A secretariat shall be established for the Advisory Committee consisting of not more than five (5) full-time persons; however, the Advisory Committee may recommend an alteration to the size of the secretariat. The secretariat shall be responsible to and under the direction and control of the Advisory Committee. Québec and Canada shall equally maintain and equally fund the secretariat. The secretariat shall receive and distribute data to the members when appropriate, report the results of meetings and decisions of the Advisory Committee and perform such other functions as the Advisory Committee shall from time to time determine, pursuant to this Section.

23.5.20 An official record of minutes and decisions of the Advisory Committee shall be kept by the secretariat.

23.5.21 Agenda for meetings shall be prepared in advance and distributed to members by the secretariat.

23.5.22 Members of the Advisory Committee or the Advisory Committee itself may call upon other persons for expert advice or assistance. The remuneration and expenses of any such person shall be paid by the party appointing the member or members who requires the services of such person. The remuneration and expenses of such person shall be paid from the budget of the Advisory Committee if the services of such person have been requested by the Advisory Committee.

23.5.23 Each party shall pay the remuneration and expenses of the members it appoints.

23.5.24 The Advisory Committee shall be a consultative body to responsible governments and as such shall be the preferential and official forum for responsible governments in the Region concerning their involvement in the formulation of laws and regulations relating to the Environmental and Social Protection Regime and as such shall oversee administration and management of the regime through the free exchange of respective views, concerns and information.

23.5.25 The Advisory Committee shall, with adequate justification, recommend to responsible governments legislation, regulations and other appropriate measures related to the Environmental and Social Protection Regime for enactment or action by the appropriate authority.

23.5.26 The Advisory Committee shall examine environmental and social laws and regulations existing from time to time relating to the effects of development as well as existing land use regulations and procedures which might directly affect the rights of Native people established by and in accordance with Section 24 and this Section, and propose changes to responsible governments where appropriate.

23.5.27 The Advisory Committee shall examine and make recommendations respecting the Environmental and Social impact assessment and review mechanisms and procedures for the Region.

23.5.28 The Advisory Committee shall be consulted from time to time on major issues respecting the implementation of the Environmental and Social Protection Regime and land use measures and may advise responsible concerned governments on the implementation of the environmental and social protection and land use regimes.

23.5.29 The Advisory Committee shall operate in accordance with the provisions of this Section.

23.5.30 All proposed regulations, measures and decisions of the Advisory Committee shall be communicated to the responsible government for attention, information and appropriate action.

23.5.31 Before submitting a regulation for enactment which relates only to the Environmental and Social Protection Regime and which is to apply only to Category 1 and/or Category II lands and/or Category III lands surrounded by Category 1 lands, the responsible Provincial or Federal Minister shall consult with the Advisory Committee provided that the failure to consult shall not invalidate the said Regulations.

23.5.32 In the case of regulations recommended by the Advisory Committee which are to apply only to Category 1 and/or Category II lands and/or Category III lands surrounded by

Category 1 lands, where the responsible Federal or Provincial Minister modifies or decides not to act upon such recommendations or decides to take new action, he shall before acting consult with the Advisory Committee provided that the failure to consult shall not invalidate the said regulations.

23.5.33 The Advisory Committee shall provide to the municipal corporations and to the Regional Government advice or technical assistance, which it will obtain from the appropriate governmental agencies.

23.5.34 The Department of Lands and Forests shall, when preparing a management plan for Crown forests and forestry operations, forward such management plan to the Advisory Committee for its consideration and comments before approving the said management plan. The said Committee shall make its comments, if any, known to the said Department within ninety (90) days.

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## **23.6 Kativik Regional Development Council**

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23.6.1 The Kativik Regional Development Council (hereinafter called "Regional Council") shall hereby be established and its officers shall be elected as is ordinarily provided for such bodies.

23.6.2 The Regional Council shall be involved with the Office de planification et de développement du Québec (hereinafter called "OPDQ") and shall become the preferential consulting body of the latter, in matters related to public consultation and advice on development in the Region north of the 55th parallel.

23.6.3 The Regional Council shall be free to comment on all studies conducted in its Region, such as environmental studies and research, physical and socio-economic conditions related to development and to environment protection.

23.6.4 The Regional Council shall establish and adopt all by-laws necessary to conduct its own affairs.

23.6.5 The Regional Council shall have access to information ordinarily available from governments and from Crown Corporation and other agencies operating in its Region.

23.6.6 Local and regional governments shall make available to the Regional Council all documents ordinarily available and relating to the development of the Region, so as to discharge its functions in respect to Québec.

23.6.7 The Regional Council may apply for grants and sponsorings for studies and research purposes within the policies of the OPDQ and the CRD.

23.6.8 The Regional Council will encourage the implementation of an information system with Québec and its other agencies in order to facilitate communications.

23.6.9 As part of its duties, the Regional Council must consult the population and may hold public hearings if it considers it appropriate to do so.

23.6.10 This Sub-Section will not prevail on jurisdictions recognized under articles 137 and 138 of Schedule 2 of Section 12.

23.6.11 The Regional Council will be eligible, as of April 1, 1976, to a basic annual minimum grant of fifty thousand dollars (\$50,000) subject to indexation generally followed by Québec; the grants mentioned in paragraph 23.6.7 will be added to the said annual minimum amount.

23.6.12 Each year, the Regional Council will submit to the Minister responsible for the OPDQ and to its president director general, a report on its past activities as well as its proposed activities in order to obtain an adequate budget for the subsequent year.

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## **23.7 Final Provisions**

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23.7.1 The Environmental and Social impact assessment and review procedure which requires the establishment of the EQC, the Screening Committee and Review Panel shall be fully operative within a period of four (4) months following the date of coming into force of the Agreement. Between the date of the coming into force of the Agreement and the time that the EQC becomes operative, the Québec Administrator shall assume the responsibilities of the EQC insofar as possible.

23.7.2 Any development which has been approved or authorized by the Administrator before the date of coming into force of the Agreement by legislation, will not be subjected to the assessment and review procedure provided for in this Section. During the period between the execution of the Agreement and the date of coming into force of the legislation, the environmental protection law will apply to the Region and the parties to the Agreement will respect the interim measures described below, which shall not apply to projects of third parties not signatory to the Agreement, nor to mining investigation and mining exploration, except those acting as agents, contractors or sub-contractors to the parties in the Agreement.

The Administrator shall see to the application of all environmental laws and regulations necessary to implement, insofar as possible, within the framework of existing statutes and regulations, the provisions of this Section.

The parties to the Agreement will be subjected to the following interim measures:

- a) they will continue to incorporate environmental and social considerations in the planning of their future development which could potentially have a significant impact on Native people and the environment,
- b) prior to any construction and/or decision to construct new development, they will inform and consult the other parties at an appropriate time for meaningful consultation in, connection with such development as follows:
  - the developer will provide a general description of the project together with its assessment of the project impact on the Native people referred to above and one the environment related thereto;
  - the Native people will then be given the opportunity to discuss this assessment within reasonable delays;

- if there is objection to the proposed project on account of a disagreement on the impact assessment, and any proposed remedial action, and that discussion has not resolved such disagreement, the Native people and the proponent shall formulate their objections and their justifications and refer the whole matter to the Administrator.
- c) they will provide information on field investigation of projects when the nature of these investigations might significantly affect Native rights contemplated in the Agreement and will discuss such activities with the Native people where considered appropriate by any party to the Agreement;
- d) upon specific request from the Native parties, the Departments of Natural Resources, Lands and Forests, and Environment Protection Services, will supply information available to them with respect to projects of third parties;
- e) they will take appropriate measures to make sure that all applicable environmental laws and regulations and existing government policies are respected;
- f) nothing in the foregoing shall prejudice the right of the Federal and Provincial authorities to withhold information, the disclosure of which would be contrary to any existing law and regulation or to the interests of national security.

23.7.3 Notwithstanding anything in this Section with respect to development projects falling under the Federal review process, Canada shall, during the transitional period referred to in this Sub-Section, continue in respect to Federal projects and Federal jurisdictions to exercise unilaterally existing Federal review processes and procedures with Inuit participation.

23.7.4 Notwithstanding anything in this Section, Québec and Canada shall forth- with upon execution of the Agreement, take the necessary measures to implement the provisions of Sub-Section 23.5 of this Section respecting the Advisory Committee, with the exception of the provision respecting this secretariat.

23.7.5 Canada and Québec may by mutual agreement combine the two (2) impact review by the EQC and the Federal Review Panel referred to in this Section provided that such combination shall be without prejudice to the rights and guarantees in favor of the Inuit and other inhabitants of the Region established and in accordance with the provisions of this Section.

23.7.6 Notwithstanding the above paragraph a project shall not be submitted to more than one (1) impact assessment and review procedure unless such project falls within the jurisdictions of both Québec and Canada or unless such project is located in part in the Region and in part elsewhere where an impact review process is required.

23.7.7 Nothing in the present Section shall be construed as imposing an impact assessment review procedure by the Federal Government unless required by Federal law or regulation. However, this shall not operate to preclude Federal requirement for an additional Federal impact review process as a condition of Federal funding of any development project.

23.7.8 Notwithstanding any provisions of this Sub-Section, nor the implementation thereof, nothing in the present Section shall be construed as constituting a recognition of any right of

the Native people in the event that the Agreement does not come into force in accordance with the provisions in Section 2 of the Agreement.

23.7.9 The measures provided for in paragraph 23.7.1, 23.7.2, 23.7.3 and 23.7.4 of this Sub-Section shall not give rise to any right in favor of any Native person to invoke any or all of the interim measures in legal proceedings before the Courts in and of Québec.

23.7.10 The provisions of this Section can only be amended with the consent of Canada and the interested Native party, in matters of federal jurisdiction, and with the consent of Québec and the interested Native party, in matters of provincial jurisdiction.

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

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## **Section 23 Schedule 1**

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### **Future developments Automatically Subject to Environmental Impact Assessment**

1. All mining developments. However, air and ground reconnaissance, survey, mapping and core sampling by drilling shall be permitted without the preparation of impact statements.

Any significant additions, alterations or modifications to existing mining developments.

2. Siting and operation of major sand and gravel pits and quarries.

3. Energy Production:

- a) Hydro-electric power plants and nuclear installations and their associated works;
- b) Storage and water supply reservoirs ;
- c) Transmission lines of 75 KV and over ;
- d) Extraction and processing of energy yielding materials ;
- e) Fossil-fuel fired power generating plants above three thousand (3,000) Kilowatts.

4. Forestry:

- a) Major access roads built for extraction of forest products ;
- b) Wood, pulp and paper mills or other forestry plants;
- c) In general, any significant change in land use substantially affecting more than 25 square miles.

5. Community and Municipal Services:

- a) new significant sewage and waste water collection and disposal systems;
- b) solid waste collection and disposal, including land fill and incineration;
- c) proposals for parks, wilderness areas, ecological reserves other similar land classifications ;
- d) new outfitting facilities for more than thirty (30) persons, including networks of outpost camps;
- e) new towns, communities or municipalities or significant expansion thereof.

6. Transportation:

- a) access roads to and near communities;
- b) port and harbor facilities;
- c) airports,

- d) railroads;
- e) road infrastructure for new development ;
- f) pipelines;
- g) dredging operations for navigation improvements.

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## **Section 23 Schedule 2**

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### **Future Developments Exempt from the Requirement for Impact Assessment**

- a) Any development within the limits of communities not directly affecting the wildlife resources outside these limits;
- b) small hotels, motels, service stations and similar structures on provincial or lesser highways;
- c) structures intended for dwellings, wholesale and retail trade, garages, offices or handicrafts and car parks;
- d) fossil-fuel fired power generating systems below three thousand (3, 000) kilowatts ;
- e) the following immoveables:  
teaching establishments, banks, fire stations, immoveables intended for administrative, recreational, cultural, religions, sports and health purposes and immoveables and equipment used for telecommunications;
- f) the construction, modification, restoration, relocation or putting to another purpose of control and transformer stations of seventy-five (75) kilovolts or under and transport and electric power transmission lines of a voltage of seventy-five (75) kilovolts or under;
- g) the construction and extension of a pipe main of less than thirty (30) centimeters in diameter to a maximum length of five (5) miles,
- h) preliminary investigation, research, survey and technical survey works prior to any project, work or structure;
- i) forestry development when included in governmental approved management plans, subject to the provisions of paragraph 23.5.34 of this Section;
- j) Municipal streets and sidewalks built in accordance with municipal by- laws, and operation and maintenance of roads and highway structures;
- k) repairs and maintenance of municipal works;
- l) temporary hunting, trapping, harvesting camps, outfitting facilities for less than thirty (30) persons;
- m) the extraction and handling of soapstone, sand, gravel, copper, timber for personal and community use;
- n) small wood cuttings for personal and community use;
- o) borrow pits for highway maintenance purposes.

The foregoing shall not be construed as restricting the requirements for Environmental

impact assessment under the Federal impact assessment and review process for federal projects.

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## **Section 23 Schedule 3**

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### **Contents of an Environmental and Social Impact Statement**

#### **1 Introduction**

This Schedule describes the objectives, preparation and contents of an environmental and social impact statement prepared pursuant to this Section of the Agreement. In the exercise of his functions, and duties pursuant to this Section of the Agreement, the Administrator shall give due consideration to the provisions of this Schedule.

The environmental and social impact assessment procedure provides for the Administrator pursuant to paragraph 23.3.17 to instruct the proponent respecting the preparation of a preliminary or a final impact statement.

The preliminary environmental and social impact statement will evaluate site alternatives for the development and provide information for the determination of the need for a final statement of the retained alternative. The preliminary statement should be based on existing information and on information from reconnaissance or survey studies.

The final or detailed environmental and social impact statement of the retained alternative would be based on a much deeper knowledge of the environmental and social implications of the development.

The inclusion of specific items in the preparation of an impact statement will depend upon the nature and extent of the proposed development. Items potentially affected should be included in the report. Pursuant to paragraph 23.3.17, the Administrator shall decide to what extent these guidelines for contents are appropriate in specific cases, and should be incorporated into a given impact statement.

#### **II - Objectives**

An impact statement should identify and assess clearly and in as factual a manner as possible, the environmental and social impacts induced by the project, especially those on the Native populations potentially affected.

The main objectives of an environmental and social impact statement are to ensure that:

- Environmental and social considerations form an integral part of the proponent's planning and decision-making process.
- Potential environmental and social impacts resulting from development are identified as systematically as possible.

- Alternatives to the proposed action, including alternatives to individual elements of large scale projects, will be evaluated with a view to minimizing within reason impacts on Native people and wildlife resources and maintaining the quality of the environment.
- Remedial or preventive measures will be incorporated into proposed development so as to minimize within reason expected negative impacts.
- The EQC, the Review Panel and the Administrator are adequately informed to be able to take the decisions for which they are responsible under this Section.

In general, the impact assessment procedure should contribute to a further understanding of the interactions between Native people, the harvesting of wildlife resources and the economic development of the Region, and also to promote understanding of ecological processes.

The impact statement is expected to be short and concise and contain an adequate guide to the contents and to the conclusions of the study, and it should also contain a clear summary containing the essential arguments and findings of the proponent. The statement may be in French or in English at the option of the proponent.

### III - contents

The following outline gives the major headings that should be included in any impact statement.

#### 1. Description of the Project

The following should be included in the project description:

- a) Purpose and objectives.
- b) Location or alternative locations being considered.
- c) Identification of area and human populations potentially affected by each project location being considered.
- d) Physical plant, activities involved in construction phase of development, including an estimate of size and composition of work force.
- e) Material/energy balance for the plant (Input / Output).
- f) Physical and human requirements for operation phase of the project.
- g) Possible future phases of the development.

#### 2. Environmental and Social Setting

The state of the environmental and social setting should be described before the proposed development begins, in order to have a reference point for the evaluation of the impacts of the development.

The description should not only include the identification and description of the components identified below, but should equally consider their ecological relationships, their interaction, and when appropriate, their scarcity, sensitivity, productivity, variety, evolution, location, etc. The level of details provided in the description should be based upon the importance, and the implications of the specific impacts involved.

The following is a representative list of the items that could be considered in the environmental and social setting. Any item potentially affected should be included.

## Environmental Conditions

### **Lands**

water

Air

Physical:

- topography
- geology
- soil and drainage

Physical:

- hydrology
- quality

Climate

Vegetation

Vegetation

Micro-climate

Fauna

Fauna

Quality

### **Social Conditions**

Populations:

- demography
- residence
- ethnic composition

Institutions:

- education
- utilities
- transportation
- other service institutions

Land Use:

- settlements and habitations
- basic utilities
- roads
- harvesting patterns
- known archaeological sites
- cemetery and burial sites

Health and Safety

Social organization:

- Family
- community
- ethnic relations

Harvesting:

- Use of various species
- importance

Culture:

- values
- goals and aspirations

Income and Employment:

- standard of living
- employment
- enterprises

### 3. Predicting and Evaluating Probable Impacts

This part of the Schedule involves the identification, evaluation and synthesis of impacts associated with the headings referred to in the part o; this Schedule entitled "Environmental and Social Setting".

The proponent may, at his discretion, include in his statement a section on information and questions submitted by the community potentially affected. Where he considers it appropriate the proponent may discuss and comment upon such information or questions.

This section of the statement should consider, whenever appropriate, direct, indirect and cumulative impacts; short term and long term impacts; reversible or irreversible impacts.

Attention should also be given to impacts occurring at different phases of the development, and on different scales, i.e. local, regional or national scale.

The proponent should in his prediction and evaluation of impacts discuss the reliability and adequacy of the information used, limitations imposed upon his study by the unavailability of information, and areas of significant uncertainty and risk.

#### 4. Alternatives to the Proposed Project

When justified by the nature of the project, there should be a section which explores and objectively assesses the impact on the Native people and on the environment of reasonable site alternatives of the project in the Region and/or of reasonable alternatives to certain elements of the proposed project. These alternatives should be considered with a view to optimize as much as reasonably possible the positive effect of the development of the environment, taking into account environmental, socio-economic and technical considerations and to minimize negative impacts including impacts on the affected population, as reasonably as possible. Where the gross impact of alternative actions differs significantly, the analysis should be sufficiently detailed to permit the comparative assessment of the costs, benefits, and the environmental risk to the different interested populations between the proposed project and the available options.

#### 5. Corrective and Remedial Measures

The proponent should include in the statement a section identifying and evaluating reasonable remedial or corrective measures which should reduce or alleviate the negative impact of the proposed development on Native people, wildlife resources of the Region and: the quality of the environment in general. Measures aimed at enhancing positive impacts induced by the project should also be included in this Section.