

Eeyou Governance in Eeyou Istchee

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Eeyou Governance in Eeyou Istchee¹

1. Introduction

When Eeyou leaders met in Mistissini, Eeyou Istchee, on June 29, 30 and July 1, 1971, they made some important decisions. This meeting was the first time in their history the Eeyou leaders from other Eeyou communities ever met together to discuss their rights, interests and future. In addition to deciding to oppose the then recently announced James Bay Hydroelectric Development Project, the Eeyou leaders decided to act together, as one nation, and speak with one voice. In deciding this course of action through consensus, Eeyou exercised self-determination as the collective power of choice. This decision to recognize and acknowledge the importance of collective rights, collective interests, collective responsibilities, and collective action as one nation led to the empowerment of the Eeyou of Eeyou Istchee to protect their rights and interest. This action and expression of Eeyou unity, as one nation, to protect their collective rights and interests was also the beginning of a form of the Eeyou Nation Government. It led, in 1974, to the establishment of the Grand Council of the Crees (Eeyou Istchee).

Foremost, the Eeyou have exercised and will continue to exercise their right of self-determination which is referred to as “Weesou-way-tah-moo-wun” in the language of the Eeyou of Eeyou Istchee. The words “Eeyou Weesou-way-tah-moo-wun” are best described as “determination by Eeyou” or Eeyou self-determination which is the power of choice in action.

Self-government is one path Eeyou have taken in putting the right of self-determination into effect. Self-government flows from the exercise of the right of self-determination. In its most basic sense, it is the ability to assess and satisfy needs without outside influence, permission or restriction. The Eeyou have asserted and will continue to exercise their inherent right of self-determination arising from their status as distinct or sovereign peoples. This right entitles them to determine their own governmental arrangements and the character of their relations with Canada and Quebec.

The exercise and practice of Eeyou Tapay-tah-jeh-souwin (Eeyou Governance) and Eeyou leadership has evolved from the exercise of Eeyou Weesou-way-tah-moo-wun or Eeyou self-determination. In particular, the Eeyou, in their relations with non-Eeyou governments, have developed and implemented a “just do it” approach in the evolution of governance. In some cases, Eeyou have established and determined their relations with non-Eeyou governments through treaty arrangements and agreements with the non-Eeyou governments. In this regard, Eeyou Tapay-tah-jeh-souwin (Eeyou governance) isn’t something that’s going to happen in the future. It’s something that has happened, is happening and will continue to happen in accordance with Eeyou law, rights and aspirations.

Based upon Eeyou experiences and to a large extent, Eeyou-Canada-Quebec relations will also determine the co-existence of Eeyou and non-Eeyou governments. Nevertheless, the Eeyou have developed their systems of governance and leadership process.

In the first contacts and relations of Eeyou with non-Eeyou governments, particularly, the Government of Canada exercised complete domination and control of Eeyou lives and affairs. Eventually with the consent of the federal authorities, the Eeyou of Eeyou Istchee were mostly administrators and managers, running programs and services designed by federal authorities. So this particular relationship was mostly about administration rather than governance. In this case, Eeyou, like other First Nations across Canada, took over and managed federal programs from the Department of Indian Affairs and Northern Development (currently known as Aboriginal Affairs and Northern Development Canada) and other federal departments.

However, the Eeyou of Eeyou Istchee changed this pattern of governance through the negotiation and implementation of the *James Bay and Northern Quebec Agreement* (JBNQA)...a modern-day treaty. The Eeyou Nation, through their local and regional governments, seized more authority and power.

Eeyou also exercised their form of Nation governance through the Grand Council of the Crees (Eeyou Istchee)/Cree Regional Authority. The Cree Regional Authority, an Eeyou regional administrative authority was created pursuant to the terms of the *James Bay and Northern Quebec Agreement*. The Eeyou people governed, asserting the rights and capacities not only to manage service and program delivery but to build their nation according to their design, to make and enforce laws, to develop and pursue long-term strategies of community and economic development, to negotiate new relationships with other governments, and to exercise meaningful jurisdiction over lands and people within their lands. The more recent new relationship agreements between the Eeyou and Canada and Quebec and the agreement on governance with Quebec will enhance local and Eeyou Nation governance. In taking this journey, the Eeyou Nation and People have marked out a path to Eeyou self-government. This journey and shift to self-government is a fundamental aspect of nation-building as Eeyou of Eeyou Istchee have reclaimed governance as an aboriginal right and activity.

But Nation-building and hence self-government are continuous activities which must develop and sustain Eeyou society that works – economically, socially, culturally and politically.

For the Eeyou, amongst other goals, nation-building is about maintaining and developing culture and identity; supporting self-governing institutions; and sustaining traditional and alternative ways of making a living and hence determining what constitutes the present Eeyou way of life. It

is about giving people choice in their lives and maintaining appropriate forms of relationship with their own and with other societies.

In order to understand and appreciate the evolution of Eeyou governance in Eeyou Istchee, one must first consider the state of Eeyou governance before the JBNQA was negotiated and signed by Eeyou and non-Eeyou governments and other parties.

2. Eeyou Governance before the 1975 *James Bay and Northern Quebec Agreement*

The leadership and vision of the Eeyou treaty-makers led the Eeyou Nation on its journey to its modern-day treaty – the *James Bay and Northern Quebec Agreement* which was signed by, amongst others, the representatives of Eeyou, Canada and Quebec on November 11, 1975. This treaty-making journey contains the main principles and values of leadership: vision, empowerment, unity, commitment, humility, respect, trust, participation, diversity, creativity, integrity, and community. It is a journey about visionary leadership based on forming and clarifying one's own dreams and ideas, sharing those ideas, transforming those dreams into actions and engaging the help of others to bring dreams and ideas to reality. It is also a story of the youth of the time working with the Elders and leaders and some as leaders to pursue the nation's vision and goals. This particular journey is about empowerment of the people, nation-building and the quest for social justice.

What was the vision as the treaty-makers and leaders of Eeyou in the early 1970s?

The Eeyou vision back in the early 1970s was a strong desire and will to change the social, political and economic status and situation of Eeyou as reflected by Eeyou history, experiences and state of the Eeyou Nation and people at the time.

In the early 1970's, before the execution of the JBNQA, the following brief and general summary describes the socio-political situation and conditions of Eeyou, their local government and administrations, and governmental relations:

- a) The population of Eeyou was about 6,000 people residing in six (6) isolated villages – Great Whale River (presently Whapmagoostui), Fort George (Eeyou of Fort George are presently living in Chisasibi as they have been relocated as a result of hydroelectric development.), Paint Hills (presently Wemindji), Eastmain, Rupert's House (presently Waskaganish), and Mistassini (presently Mistissini). Eeyou of these villages lived in inadequate housing shelters without electricity and suitable infrastructures for water and sewage systems;

- b) Only one of the six (6) isolated Eeyou villages was accessible by road and telecommunications was conducted by radio-phone;
- c) Only three (3) Eeyou communities – Mistassini, Waswanipi and Eastmain – were allocated lands as 'reserves' established by provincial law under an administrative arrangement with the federal government. (But only the Mistassini Eeyou were residing on their 'reserve.' The Waswanipi Eeyou had no choice but to leave the old Waswanipi Post and their 'reserve'. The 'reserve' for the Eastmain Eeyou was located outside of the Eeyou village of Eastmain.)
- d) The traditional way of life based on hunting, fishing and trapping and related activities constituted (and still remains) an essential and necessary component of Eeyou culture and society. The Governments of Canada and Quebec did not recognize Eeyou rights to hunt and fish. These governments enacted and enforced their hunting and fishing laws and regulations throughout Eeyou Istchee. As a result, many Eeyou were prosecuted for practicing a traditional way of life based on hunting, fishing and trapping.
- e) Eeyou exercised and applied their traditional land tenure and governance systems as Eeyou Indoh-hoh Ouje-Maaooch (Tallymen) governed their respective Indoh-hoh Istchee (hunting territory or trapline).
- f) Until the execution of the *James Bay and Northern Quebec Agreement* and the subsequent enactment of the *Cree-Naskapi (of Quebec) Act* by Parliament, the *Indian Act* was the single most prominent piece of legislation respecting Eeyou local government. The *Indian Act* applied and was enforced upon Eeyou. Hence, under the *Indian Act*, the legal system of a very limited and supervised regime of local government was imposed on the Eeyou 'Bands'. This imposed elective form of local government vested in the Minister of Indian Affairs and Northern Development (currently known as Aboriginal Affairs and Northern Development Canada) veto powers over decisions of local governments.
- g) The imposed *Indian Act* regulated almost every important aspect of the lives of the Eeyou 'Indians'.
- h) With the exception of the Ouje-Bougoumou Eeyou, Eeyou had 'Band' status under the *Indian Act*.
- i) The Nemaska Eeyou, having been relocated from the old Nemaska Post, resided in the Eeyou villages of Rupert's House and Mistassini.
- j) The Waswanipi and Ouje-Bougoumou Eeyou were dispersed and residing in small crude encampments throughout their traditional territories and in some non-Native municipalities.
- k) The Ouje-Bougoumou Eeyou were registered as members of the Mistassini Band by Indian Affairs (currently known as Aboriginal Affairs and Northern Development Canada) for economic and administrative reasons. (Some Ouje-Bougoumou Eeyou resided in the village of Mistassini.)

- l) Notwithstanding the legal regime of the *Indian Act*, Eeyou continued to use their traditions and customs for 'band' elections and decision-making over local individual and collective matters.
- m) The federal government, mainly through the Department of Indian Affairs and Northern Development (DIAND) (currently known as Aboriginal Affairs and Northern Development Canada), provided programs and services such as education and community development to the Eeyou 'bands'. National Health and Welfare provided health measures. However, these services and programs were under the exclusive control and administration of the federal government. Often officials from Indian Affairs made important decisions which were rubber-stamped by the Chief and Council.
- n) The DIAND asserted control over political structures, land administration and management, community development and social and economic development of the Eeyou 'Bands' and communities. Consequently, the DIAND controlled Eeyou local governmental and administrative matters;
- o) Eeyou local governments were accountable mainly to non-Eeyou governments and agencies such as the DIAND that provided funding for their activities. These arrangements created a situation where Eeyou local governments were more responsive to external agencies than to community members. Further, the development of the capacity for political accountability was stymied by the fact that key policy and program decisions were made by non-Eeyou officials;
- p) The Eeyou 'Bands' conducted federal relations solely through officials of the District Office of the DIAND. Consequently, the Cree 'Bands' rarely conducted direct relations with the Government of Canada. In effect, the District Office of Indian Affairs was the centre of Cree 'Bands' and federal relations;
- q) Eeyou 'Bands' functioned separately as Eeyou had not, until 1974, established the Grand Council of the Crees (of Quebec).
- r) The DIAND arranged contractual and administrative measures to permit some Eeyou bands to manage some federal programs and services such as operations of local schools.
- s) Relations with the Government of Quebec were virtually non-existent in most Eeyou communities.
- t) Questions existed about the capacity of the 'Band' under the *Indian Act* to undertake contractual obligations and assume legal responsibilities as a legal entity or a legal personality.
- u) The Government of Quebec considered the welfare of the Eeyou 'Indians' as the responsibility of the Government of Canada and hence provided little or no services and programs to Eeyou;
- v) The Government of Canada and the Government of Quebec did not recognize aboriginal rights. The Constitution of Canada was silent on the issue of aboriginal and

treaty rights. Hence, Canada and Quebec did not recognize the aboriginal right of self-government. The federal government and provincial government held the view that Native people had no rights of government other than that the government chooses to legislate or impose such as the regime under the *Indian Act*.

- w) The limitations and restrictions on Eeyou governance under the *Indian Act* and the dominating administrative arm of the DIAND came to be regarded as instruments and agents of intrusion into Eeyou affairs.
- x) Resource development such as hydro-electric development within the Cree traditional and historical territories became a major issue and concern.
- y) The obligations of Quebec to settle land and other claims of Native people when its boundaries were extended in 1898 and 1912 remained outstanding and unfulfilled.

Consequently the vision of the Eeyou Treaty-makers and leaders entailed changing the Eeyou world and making it a better world for Eeyou of Eeyou Istchee through nation-building. Eeyou wanted to maintain and protect Eeyou Pimaatehsouwin (Eeyou way of life) and Eeyou Behdoun (Eeyou culture and Eeyou way of doing things). Eeyou wanted their rights recognized and protected. They wanted to pursue their traditional way of life as well as enable those who wanted to participate in the contemporary wage economy. Eeyou wanted to be in control of their affairs, institutions, communities and governments...in effect govern themselves. Eeyou wanted community and economic development but under their terms. Eeyou wanted respect and participation in the development and management of natural resources in Eeyou Istchee. Eeyou wanted responsible and sustainable resource development that took into account their concerns and interests. In other words, Eeyou wanted to change the Eeyou world and make it a better place. The Eeyou of Eeyou Istchee had this common and shared vision. This vision united the Eeyou people as one nation with one voice. This unity enabled nation-building and strengthened and empowered the Eeyou Nation. But Eeyou had to wait with patience until the time and circumstances were right to make these changes happen.

The 1975 *James Bay and Northern Quebec Agreement* arose out of what was initially opposition by Eeyou to proposed hydroelectric development in Eeyou Istchee. Quebec and Hydro-Quebec, in April 1971, had announced the first major hydroelectric development project without consultations with the Eeyou who would be profoundly impacted by the proposed project. The litigation initiated by Eeyou resulted, by a treaty process, in a negotiated settlement respecting the rights of Eeyou and development of natural resources in Eeyou Istchee. For Eeyou, the treaty process was the path chosen to further the process of nation-building, secure Eeyou rights such as self governance and redefine relationships with Canada and Quebec.

3. *James Bay and Northern Quebec Agreement*, its related Agreements and Eeyou Governance

The negotiations, from 1973 to 1975, that led to the signing of the Agreement in Principle (November 15, 1974) and the *James Bay and Northern Quebec Agreement* (November 11, 1975) were a rare opportunity for Eeyou to achieve recognition of particular rights, guarantees and benefits for their distinct society and way of life based on their central and special relationship with their historical and traditional territories – Eeyou Istchee. The negotiations and the *James Bay and Northern Quebec Agreement* also provided a means for achieving, to some extent, the Eeyou vision for the enhancement and advancement of Eeyou governance; but Eeyou were constrained by the existing political and legal environment of the 1970s. These constraints have resulted in a very complex and perplexing Treaty.

The legal system of limited and supervised law-making powers of bands under the *Indian Act* was an impediment for the proper exercise of local autonomy and local government. Under the *Indian Act*, the Minister of Indian Affairs and Northern Development (currently known as Aboriginal Affairs and Northern Development Canada) had disallowance and veto powers over decisions and legislation as determined by the Chief and Council of each Eeyou community as well as other First Nation communities in Canada. The *Indian Act* was also a serious barrier to economic development as the Act fails to create bands as a legal entity with the capacity to assume contracts and other legal obligations and responsibilities. Furthermore, the *Indian Act* and the Department of Indian Affairs came to be regarded by Eeyou of Eeyou Istchee as instruments and agents of intrusion and domination of Eeyou affairs and Eeyou governance.

By 1970, Eeyou saw and still agree that progress in self-government, in social and economic development and in eradicating the social ills afflicting them cannot and could not be accomplished within the confines of the *Indian Act* and the dominating administrative arm of the Department of Indian Affairs. Consequently, for Eeyou, the comprehensive control and domination asserted by the federal government over Eeyou society through the *Indian Act* and the Department of Indian Affairs became the catalyst for change in Eeyou and federal relations.

Thus, the Eeyou Nation of Eeyou Istchee negotiated a change in relations with the Government of Canada and the Government of Quebec through the terms and provisions of the *James Bay and Northern Quebec Agreement*.

However, the signing of the *James Bay and Northern Quebec Agreement* did not mark the end of conflicts, disputes and negotiations. Rather it signaled the beginning of continued interaction between the Cree of Eeyou Istchee and the Government of Quebec, Government of Canada and Hydro-Quebec over the implementation of the letter, intent and spirit of the terms and provisions of the *James Bay and Northern Quebec Agreement*.

The JBNQA recognizes the continuity of the system of "Cree traplines." The "Indoh-hoh Istchee" system of Eeyou is the "Cree trapline" system contemplated by the JBNQA. In fact, paragraph 24.1.9 of subsection 24.1 of section 24 of the JBNQA defines a Cree trapline as "*an area where harvesting activities are by tradition carried on under the supervision of a Cree tallyman.*"² The Cree trapline contemplated by the Agreement is intended to reflect the Indoh-hoh Istchee as determined and established by Eeyou traditional law and customs. Presently there are over three hundred (300) Indoh-hoh Istchee throughout Eeyou Istchee.

Secondly, in order to determine the exercise of governance and authority for each Indoh-hoh Istchee, Eeyou established and implemented the system of Indo-hoh Istchee Ouje-Maaoch or Indoh-hoh Ouje-Maaoch (hereafter referred to as Indoh-hoh Ouje-Maao). The Indoh-hoh Ouje-Maao is generally referred to as the "Cree Tallyman" in the JBNQA.

Paragraph 24.1.8 of subsection 24.1 of section 24 of the JBNQA defines a Cree Tallyman as "*a Cree person recognized by a Cree community as responsible for the supervision of harvesting activity on a Cree trapline.*"³

However, according to traditional law and customs, the Indoh-hoh Ouje-Maao has more than supervisory roles and functions. In general, the Indoh-hoh Ouje-Maao has the authority and responsibility for the proper stewardship, guardianship and custodianship of Indoh-hoh Istchee. In accordance with and subject to traditional law and customs, the duties and responsibilities of the Indoh-hoh Ouje-Maao include but are not limited to the following:

- a) Management and conservation of wildlife and other natural resources;
- b) Control of access to Indoh-hoh Istchee (consent, permission and authorization of the Indoh-hoh Ouje-Maao concerned are required);
- c) Determination of the delineation and limits of Indoh-hoh Istchee;
- d) Resolution of territorial disputes respecting limits of Indoh-hoh Istchee;
- e) Maintenance of the territorial integrity of Indoh-hoh Istchee;
- f) Determination of names of places and sites within Indoh-hoh Istchee;
- g) Transfers of portions or entirety of Indoh-hoh Istchee by agreement or inheritance;
- h) Sharing of history, information and traditional knowledge;
- i) Respect, maintenance and transmission of Eeyou Eedouwun (Eeyou way of doing things);
- j) Sharing of wildlife resources to ensure survival;
- k) Application and enforcement of customary practices and rules respecting life and activities within Indoh-hoh Istchee; and
- l) Political representation.

This continued interaction between the Cree, Canada and Quebec often resulted to confrontations and conflicts over the failure of Canada and Quebec to honour and respect their commitments, responsibilities and obligations to the Crees under certain terms and provisions of the JBNQA.

To improve and facilitate the implementation of the James Bay and Northern Quebec Agreement, the following agreements were made:

- a) *Agreement Concerning a New Relationship between the le Gouvernement du Quebec and the Crees of Quebec;*
- b) *Agreement Concerning a New Relationship between the Government of Canada and the Cree of Eeyou Istchee;* and
- c) *Framework Agreement between the Crees of Eeyou Istchee and the Gouvernement du Quebec on Governance in the Eeyou Istchee James Bay Territory*
- d) *Agreement on Governance in the Eeyou Istchee James Bay Territory between the Crees of Eeyou Istchee and the Gouvernement du Quebec*

The James Bay and Northern Quebec Agreement and related Agreements have substantially changed and will continue to change the political, social and economic landscape of Eeyou Istchee. In particular, amongst other purposes, these agreements recognize and advance Eeyou Governance such as traditional Eeyou Indoh-hoh Istchee governance, Eeyou public governance, local Eeyou governance, Eeyou nation governance and Eeyou-Jamésiens public regional governance.

3.1 Traditional Eeyou Indoh-hoh Istchee Governance - Indoh-hoh Istchee Ouje-Maaoch (Eeyou Traditional System of Governance of Hunting Territories)

Eeyou of Eeyou Istchee consider themselves as the guardians, stewards and custodians of Eeyou Istchee. Therefore, Eeyou, as a nation, have established traditional law and customs respecting the use, occupation and governance of Eeyou Istchee.

First, Eeyou established and implemented the system of "Indoh-hoh Istchee" as part of the Eeyou land tenure system. Eeyou established units of Indoh-hoh Istchee throughout Eeyou Istchee. (The Indoh-hoh Istchee system pre-existed the trapline system which came into existence for managing the harvesting of fur-bearing animals. In fact, the organizational plan of the Government of Quebec respecting its Beaver Preserves and registered traplines reflect elements of the Eeyou Indoh-hoh Istchee system. Therefore, one should not consider the registered trapline system as being the same or replaces the Eeyou Indoh-hoh Istchee system. The registered trapline system is a tool for the management of fur-bearing animals by the Government of Quebec. Before the existence of the JBNQA, registered traplines were licensed under the *Fish and Game Act* of Quebec.)

Weenbekou Eeyou (Coastal Eeyou) have established the system of Paasd-heejeh Ouje-Maaooh particularly for the purposes of goose hunting management within their respective Indoh-hoh Istchee. The Paasd-heejeh Ouje-Maao is ordinarily the same individual Eeyou who is the Indoh-hoh Ouje-Maao or Indoho Istchee Ouje-Maao.

In addition, Eeyou have, by traditional law and customs, established rules and practices for a code of conduct for activity throughout Eeyou Istchee and within Indoh-hoh Istchee.

Section 30 (Cree Hunters and Trappers Income Security Program) of the *James Bay and Northern Quebec Agreement* and Chapter 3 (Forestry) of the *Agreement Concerning a New Relationship Between the Government of Quebec and the Crees of Quebec* enhance the authority of the Indoh-hoh Ouje-Maao. Under the Income Security Program, the status of the Indoh-hoh Istchee as a 'near' or 'far' harvesting territory can only be changed through the collaboration of the Indoh-hoh Ouje-Maao concerned. Furthermore, pursuant to the terms and provisions of the *Agreement Concerning a New Relationship Between the Government of Quebec and the Crees of Quebec*, Indoh-hoh Istchee will be used as a basis for delimiting the territorial reference units for the management of the adapted forestry regime. Sites of special interest to Eeyou will be identified and mapped by Eeyou in cooperation with Quebec. No forest management activities may be undertaken in these areas unless the Indoh-hoh Ouje-Maao agrees otherwise.

3.2 Board Governance, Public Governance and Co-Management Regimes

The *James Bay and Northern Quebec Agreement* and other related Agreements create or contemplate the creation of regional legal and corporate entities. Through these legal entities, Eeyou of Eeyou Istchee exercise board governance as these entities are governed by a Board of Directors or by a similar body.

In many instances where these entities are providing programs and services through principal entities such as the Cree Regional Authority, Cree School Board and the Cree Board of Health and Social Services of James Bay, Eeyou have been and are continuing to exercise a form of self-administration of governmental programs and services. In addition, Eeyou of Eeyou Istchee exercise a form of public governance through the Cree School Board and the Cree Board of Health and Social Services of James Bay over matters within their jurisdictions and responsibilities.

Eeyou also participate in regimes of co-management with the Government of Canada and Government of Quebec through the entities or bodies created by the *James Bay and Northern Quebec Agreement* and related Agreements. These entities usually are advisory and consultative bodies for the Eeyou, federal and provincial governmental authorities.

Furthermore, in some cases, Eeyou of Eeyou Istchee exercise a form of co-management of funds, programs and projects with Hydro-Quebec through the entities contemplated in the JBNQA and related Agreements.

In order to enhance Eeyou governance and to translate the concept of a new partnership and a redefined relationship between Eeyou of Eeyou Istchee and the Government of Canada and the Government of Quebec into reality, the following principal institutions were established by legislation enacted and agreements concluded in accordance with the terms and provisions of the *James Bay and Northern Quebec Agreement* and related Agreements:

- 1) The Cree School Board, with its unique and special powers and under the control of Eeyou of Eeyou Istchee, has jurisdiction and responsibility for elementary, secondary education, post secondary and adult education for residents within the Eeyou communities. The Cree School Board has been instrumental in the preservation of Eeyou culture and the development and implementation of Eeyou language instruction.
- 2) The Cree Board of Health and Social Services of James Bay, under the control of Eeyou of Eeyou Istchee, has jurisdiction and responsibility for the administration of appropriate health and social services for all persons normally resident or temporarily present in the Eeyou communities.
- 3) The Hunting, Fishing and Trapping Coordinating Committee, with members from the Native and government parties, was established as a consultative body to responsible governments and as such was meant to be the preferential and exclusive forum for the Cree as well as the Naskapi and Inuit peoples and governments to formulate jointly regulations and supervise the administration and management of the Hunting, Fishing and Trapping Regime established by and in accordance with Section 24 of the *James Bay and Northern Quebec Agreement*.
- 4) The James Bay Advisory Committee on the Environment, with members appointed by the Cree Regional Authority, federal and provincial governments, was established to review and oversee the administration and management of the Environmental and Social Protection Regime established by and in accordance with Section 22 of the *James Bay and Northern Quebec Agreement*.
- 5) The Cree were accorded special status and involvement in the various mechanisms such as evaluating and review committees that were created for the review and assessment of the social and environmental impacts of proposed development projects in the Territory contemplated by the Agreement.

- 6) Furthermore, Section 28 of the *James Bay and Northern Quebec Agreement* contemplates the establishment of the Cree Trappers' Association, Cree Outfitting and Tourism Association and the Cree Native Arts and Crafts Association.
- 7) The Indoo-Who Shoo-Yan Ujemaoch (Cree Hunters and Trappers Income Security Board) is responsible for the administration of the Cree Hunters and Trappers Income Security Program as established by and in accordance with Section 30 (Income Security Program for Cree Hunters and Trappers) of the *James Bay and Northern Quebec Agreement*. The Cree Regional Authority and the Government of Quebec each appoint three (3) members to the Cree Hunters and Trappers Income Security Board.

In addition, the *Agreement Concerning a New Relationship between le Gouvernement du Quebec and the Crees of Quebec* and its side agreements establish or contemplate the creation of the following principal legal entities and bodies:

- 1) The Cree Development Corporation (CDC) shall be established with objects and powers for the economic and community development of the James Bay Crees.
- 2) The Eenou/Eeyou Foundation Limited Partnership is the "recipient of funding" contemplated in the *Agreement Concerning a New Relationship between le Gouvernement du Quebec and the Crees of Quebec*.
- 3) The Cree-Quebec Forestry Board is established for the purpose of permitting a close consultation of the Crees during the different steps of planning and managing forest management activities in order to implement the adapted forestry regime.
- 4) The Mineral Exploration Board is established to assist the Crees in accessing and participating in mineral exploration opportunities and activities.
- 5) The Standing Liaison Committee is established to act as a permanent forum of exchange and of coordination between the Crees and Quebec in order to strengthen their political, economic and social relations and to ensure the harmonious efficient implementation of the New Relationship Agreement and to resolve other questions relating to the implementation of the *James Bay and Northern Quebec Agreement*.
- 6) The GCC(EI)-CRA/HQ-SEBJ Dispute Resolution is constituted by the Agreement Respecting Disputes and a Dispute Resolution Committee and is mandated to attempt to resolve all outstanding disputes between the Crees and HQ/SEBJ.

For the purposes of economic development, Eeyou of Eeyou Istchee have established the following principal business ventures and corporations:

- 1) Cree Regional Economic Enterprises (CRECO)
- 2) Valpiro
- 3) Petronor (CreeEnergy)
- 4) AirCreebec
- 5) Cree Construction and Development Company Ltd.

For social and cultural development, Eeyou of Eeyou Istchee have established the following principal entities or corporations:

- 1) Elders Council
- 2) Cree Nation Youth Council
- 3) Cree Native Women's Association
- 4) James Bay Eeyou Cultural Education Center
- 5) James Bay Cree Communications Society
- 6) Aanischaaukamikw Center (Cree Cultural Institute)
- 7) Cree Indian Friendship Center of Chibougamau

In addition, the local Eeyou First Nations and their respective governments have established other corporations and legal entities for economic development. Some examples are Mistuk (Waswanipi), Tawich (Wemindji), Wabannutao Eeyou Development Corporation (Eastmain), and Chisasibi Enterprises Reg'd (Chisasibi).

3.3 Eeyou Local Government

Pursuant to the terms and provisions of the *James Bay and Northern Quebec Agreement*, Eeyou Istchee was carved out into three (3) categories of land. Lands classified as Category 1A, under federal jurisdiction, and Category 1B, under provincial jurisdiction, were set aside and allocated to the Cree for their exclusive use and benefit and under the administration and control of Cree local governments.

Pursuant to federal obligations to Eeyou under the JBNQA, special federal legislation – the *Cree-Naskapi (of Quebec) Act* – enacted by Parliament and assented to on June 14, 1984 – provides for an orderly and efficient system of Cree and Naskapi local government and for the administration, management and control of local community lands by the Cree and Naskapi First Nations respectively. The *Cree-Naskapi (of Quebec) Act* replaces the *Indian Act* for the Cree

Nation of Eeyou Istchee and the Naskapi Nation of Kawawachikamach. During the course of negotiations leading to the signing of the JBNQA, Eeyou of Eeyou Istchee rejected the restricted, supervised and imposed local government regime of the *Indian Act*. Consequently, except for the purpose of determining which of the Cree beneficiaries and Naskapi beneficiaries "Indians" are within the meaning of the *Indian Act*, the *Indian Act* does not apply to the Cree and Naskapi First Nations nor does it apply on or in respect of their community lands.

Furthermore, the *Cree-Naskapi (of Quebec) Act* establishes the Cree-Naskapi Commission with a duty and responsibility to report biennially on the implementation of the said Act and related matters. Pursuant to its mandate, the Cree-Naskapi Commission has produced and submitted, so far, a total of thirteen (13) biennial reports to the Minister of Indian Affairs who tables each report in both Houses of Parliament. The findings and recommendations of the Cree-Naskapi Commission pertain to the issues and concerns of the Cree and Naskapi communities, implementation of the *James Bay and Northern Quebec Agreement* and the *Northeastern Quebec Agreement* and implementation of the *Cree-Naskapi (of Quebec) Act*. In particular, the Commission has recommended appropriate amendments to the *Cree-Naskapi (of Quebec) Act* with the objective of enhancing and advancing Eeyou local government. But the Act has, so far, not been amended to enhance and advance Eeyou local government and administration. Consequently, the *Cree-Naskapi (of Quebec) Act*, since its enactment by the Parliament of Canada thirty (30) years ago, remains a rigid, inflexible and unchanging instrument as it fails to evolve with the changing realities and dynamics of Eeyou local government.

Thus, the full potential of local Eeyou government, with its dynamic and evolving nature, has not yet been realized and achieved by Eeyou of Eeyou Istchee.

The proper implementation of the *Cree-Naskapi (of Quebec) Act* has been difficult for all parties concerned and it remains to be properly implemented and amended in a manner that reflects the spirit and intent of the JBNQA as well as the needs and aspirations of Eeyou of Eeyou Istchee for effective local governance.

First and foremost, effective local government depends upon a sound economic base. In this regard, an understanding between the Cree and the Government of Canada was concluded on a mechanism for the funding of Cree local government and administration and Cree regional administration of certain services and programs. However, the Government of Canada insists on funding agreements that fail to take into account the evolving needs and realities of Eeyou self-government. Such funding arrangements have often been conditional with subsequent political constraints.

The *Cree-Naskapi (of Quebec) Act* creates band corporations which have the object of acting as the local government authority. Under traditional law, Eeyou or the Eeyou nation is the

historical, traditional and present self-governing authority. Eeyou consider themselves as the historical and traditional authority for the exercise of self-government. In practice, Canada delegates such authority to the band corporations through federal legislation. For Eeyou, the inherent right of Eeyou self-government should not be a derivative of federal authority. In fact, the Cree communities refer to themselves as Eeyou/Eenou or as First Nations and not as bands or band corporations.

Even though the *Cree-Naskapi (of Quebec) Act* flows from treaty arrangements, Eeyou is still impacted by legislation of Parliament and the whims of federal officials in interpreting and implementing the legislation. Thus, the Government of Canada controls the process and results to ensure that the exercise of the right of self-government is contingent upon government consent. This particular arrangement has the tendency to force Eeyou to create governance structures in the image of federal legislation and to live with them thereafter. The Eeyou inherent right of self-government is, however, by definition, a right which pre-exists the authority of the federal and provincial governments and which should exist independently of the agendas and policies of the non-Eeyou governments.

With respect to Eeyou Municipal Governments, pursuant to Section 10 (Cree Local Government (Category IB)) of the *James Bay and Northern Quebec Agreement*, Cree Village Corporations and Municipal Councils were established by provincial legislation for administration and control of Category 1B lands that were and are presently uninhabited by people. In addition, the Eeyou Municipal Governments have legislative authority over Category II and III lands for persons permitted to hunt and fish or conditions for commercial hunting thereon. The Category 1B lands are municipalities governed by Eeyou Municipal Councils that do not have funds to function as municipal governments. This is an impediment for Eeyou governance.

Notwithstanding the legal regime of local government under the *Cree-Naskapi (of Quebec) Act* and other powers and responsibilities of Eeyou for Governance under the JBNQA, its related Agreements and subsequent legislation, Eeyou continue to incorporate Eeyou law, traditions and customs in the exercise and practice of local government and Eeyou nation governance. In this manner, the JBNQA and its related Agreements, the *Cree-Naskapi (of Quebec) Act* and other enabling legislation of Quebec and Canada are not exhaustive of the inherent right of Eeyou Governance.

In general, the powers and authority of Eeyou governance arise also from long-standing practices based on Eeyou law, traditions and customs.

3.4 Eeyou Nation Governance

According to the Report of the Royal Commission on Aboriginal Peoples of November 1996, the nation government is identified by the following key characteristics:

- a) an identifiable land and territorial base consisting of the nation's own lands and resources;
- b) citizenship in the nation as a whole;
- c) the presence of non-Aboriginal residents on the nation's lands and the protection of their rights;
- d) the exercise of government powers and authority in a comprehensive range of jurisdictions and, depending on the internal structure of the nation government, possibly by units of government at community, regional or tribal levels;
- e) the possibility of one or more units of government within the nation, organized centrally or federally;
- f) internal government procedures that vary from one nation to another and that build upon a nation's traditions;
- g) the possibility of urban components or extensions of nation government, including extra-territorial jurisdictions and urban institutions; and
- h) the possibility of relationships with other Aboriginal governments through inter-nation associations such as confederacies, treaty associations and provincial or pan-provincial associations.⁴

Clearly, Eeyou/Enou governance meets these key characteristics of the nation government.

In addition to the Eeyou traditional system of Indo-hoh Istchee governance, there are presently two levels of government within the Eeyou nation - the local Eeyou government and the Eeyou Tapaytahchehsou. (The term "Eeyou Tapaytahchehsou" should not be mistaken as the Cree Regional Authority alone as Eeyou consider the Chisa-Oujemaakan (Grand Chief) and the Katach-skouwat Chisa-Oujemaakan (Deputy Grand Chief) of the Grand Council of the Crees (Eeyou Istchee) and the Oujemaakanch (Eeyou Chiefs of the local communities) as the Eeyou Ouje-Maaooch and collectively as Eeyou Tapaytahchehsou.)

As the Eeyou Nation is the traditional and historical authority of governance, Eeyou of Eeyou Istchee exercises governance at a national level which extends beyond board governance, public governance and self-administration of programs and services. While the 'nation government' is not yet constituted under contemporary law, Eeyou of Eeyou Istchee consider the Grand Council of the Crees (Eeyou Istchee)/Cree Regional Authority (GCCEI/CRA) as a form of a nation government.

By-law No.13 of the Grand Council of the Crees (Eeyou Istchee), adopted at a special meeting of the Board of Directors of the Grand Council held in Val D'or, Quebec on June 19, 1996 and sanctioned by the members of the Annual General Assembly held in Waswanipi on June 26, 1996 describes the object of the Corporation as acting as a regional council and as a regional government. Clearly, Eeyou view the Grand Council of the Crees (Eeyou Istchee)/Cree Regional Authority as a form of a regional Eeyou government.

The Grand Council of the Crees (of Quebec) was established by Eeyou of Eeyou Istchee in August, 1974 as a political organization and incorporated pursuant to federal legislation. It began as a body representing the Cree Nation in the protection of Eeyou rights and interests. Therefore, the Grand Council of the Crees (of Quebec) represented Eeyou of Eeyou Istchee in negotiations that led to the execution of the *James Bay and Northern Quebec Agreement* and the *Agreement Concerning a New Relationship between le Gouvernement du Quebec and the Crees of Quebec* and other related agreements. (It is important to note that the Grand Council of the Crees was established pursuant to the expressed will of Eeyou and did not emanate from the *James Bay and Northern Quebec Agreement*.) The Grand Council also represented, along with each local Eeyou Government, the Eeyou Nation in litigation to protect Eeyou rights and interests. However, Eeyou assert governance through the Eeyou Nation as it is the traditional and historical authority for the exercise of self-government. Consequently, the Grand Council of the Crees (Eeyou Istchee) exercises a Eeyou nation form of governance for and by Eeyou of Eeyou Istchee. While the Grand Council exercises board governance under contemporary law, it exercises nation governance under Eeyou law. After all, the decisions made by the Grand Chief, Deputy Grand Chief and the Eeyou Chiefs together affect all the members of the Eeyou Nation. Furthermore the Grand Council of the Crees (Eeyou Istchee) does negotiate and make nation-to-nation treaties and conducts relations with other nations. In this regard, the GCCEI is a party to the Treaty Alliance of North American Aboriginal Nations signed in Ouje-Bougoumou, Eeyou Istchee on July 6, 1986. The North American Aboriginal Nations as parties to this Treaty "reaffirm their desire to live in peace with all peoples and governments; declare their determination to protect and preserve their peoples, lands, resources, heritage and culture; and agree to join their efforts at self-help and self-defense through mutual aid and assistance."

In addition, the Grand Chief/Chairman and the Deputy Grand Chief/Vice-Chairman of the Grand Council of the Crees (Eeyou Istchee)/Cree Regional Authority are elected by the Eeyou electors of Eeyou Istchee. The Chiefs are elected by the Eeyou electors of their respective communities. Consequently, the Grand Chief, Deputy Chief and the Eeyou/Enou Ouje-Maakanch (Eeyou Chiefs) are the Eeyou/Enou Ouje-Maaooch as elected leaders and officials of Eeyou nation governance. In fact, the 'Board' of the GCCEI is referred to as the Grand Council or Eeyou Tapay-tah-jeh-sou.

In addition, the Grand Council of the Crees (Eeyou Istchee), representing the Eeyou Nation of Eeyou Istchee, has established and maintains a Cree Embassy in Ottawa - Canada's Capital city. The Grand Council of the Crees (Eeyou Istchee) also conducts international relations and is active in the international community.

Since the establishment of the Grand Council of the Crees, Eeyou have become a stronger nation with advancements and achievements that have benefited Eeyou. In this regard, the unity of Eeyou, acting as one Nation and one voice, is a major and fundamental factor. One must keep in mind the name of the Grand Council of the Crees (Eeyou Istchee) in the Eeyou language - "Weenbaooch Nochemewewoch Ahnamadooch" - means "coastal and inland Eeyou helping each other."

The Cree Regional Authority, under the control of Eeyou, was established by provincial legislation for the administration of programs and services and the administration of the compensation funds payable to the Crees pursuant to the terms and provisions of the *James Bay and Northern Quebec Agreement*. The Board of Compensation manages the compensation funds. The Cree Regional Authority is mainly involved in the administration and delivery of programs and services to the Eeyou communities. Eeyou, through the Cree Regional Authority, exercise self-administration of governmental programs and services. To some extent, the self-administration of governmental programs and services has impacted the principle of accountability of Eeyou authorities to Eeyou as these programs are funded by non-Eeyou governments that demand extensive accountability to the funding governmental department for the expenditure of public funds.

The Cree Regional Authority (CRA) or its successor is the "Native Party" for Eeyou under the *James Bay and Northern Quebec Agreement*. Therefore, the consent of Eeyou for any amendments to the JBNQA that affects Eeyou must be obtained through the Cree Regional Authority. Consequently, the CRA, on behalf of Eeyou of Eeyou Istchee, is the signatory of any such complementary agreement to the JBNQA.

The Cree Regional Authority appoints its representatives or members to the various bodies created by the *James Bay and Northern Quebec Agreement* and related Agreements. It also assumes certain financial responsibilities under the New Relationship Agreements. Clearly, in some instances, the Cree Regional Authority acts as a 'government' for Eeyou of Eeyou Istchee.

In addition, one must recall the leadership crisis in the early 1980s, when Eeyou had two leaders - the Grand Chief of the GCCQ and the Chairman of the CRA. A special assembly was convened to resolve the question of leadership. The assembly decided to make the leadership and board membership of the CRA the same as that of the GCCQ which remained the principal authority. Consequently, the Grand Chief and the Executive Chief (presently the Deputy Grand

Chief) of the GCCEI held the offices of the Chairman and Vice-Chairman of the CRA respectively. The members of the Executive of the GCCEI became the members of the Executive Committee of the CRA. In addition, the members of the Board of Directors of the GCCEI became the members of the Council of the CRA. In practice, the two principal Eeyou regional authorities became designated as the Grand Council of the Crees (Eeyou Istchee)/Cree Regional Authority. Therefore, it is not conceivable to separate and alienate the present hierarchical system of Eeyou leadership from any evolution of an Eeyou Nation Government. This nation governance can be advanced further through a process in which the Grand Council of the Crees (Eeyou Istchee)/Cree Regional Authority evolves as the principal authority in the Eeyou Nation Government. In any case, this evolution appears to be the present trend and direction of Eeyou Tapay-tah-jeh-souwin on the basis of the past and present exercise and practice of Eeyou governance by Eeyou of Eeyou Istchee.

Eeyou of Eeyou Istchee have an Eeyou legal system and law making authority. (The development and implementation of the Eeyou Indoh-hoh Istchee system is a direct result of the application of the Eeyou legal system and exercise of Eeyou law-making authority.) Eeyou, as the traditional and historical authority in the exercise of governance, have established and continue to establish customary law and other Eeyou laws which may evolve and take modern form. This evolution of Eeyou customary or traditional processes and practices is an expression of the will and sovereignty of the people exercised through the Eeyou nation decision-making process.

The inclusion of Eeyou or beneficiaries of the JBNQA as members of the GCCEI/CRA is another compelling factor for Eeyou nation governance. The other principal entities such as the Cree School Board and the Cree Health Board do not retain such membership. (The Cree School Board is a school board under the *Education Act* and the Cree Health Board exercises the powers and functions of a Regional Council within the meaning of the *Act respecting Health and Social Services*.) However, these principal Eeyou regional authorities are instrumental in the exercise of Eeyou control over education, health and social services within Eeyou Istchee.

Eeyou, acting in unity and as one nation through the Grand Council of the Crees (Eeyou Istchee)/Cree Regional Authority, can further advance the evolution of Eeyou nation governance (and local governance) through the proper implementation of the *Agreement Concerning a New Relationship between le Gouvernement du Quebec and the Crees of Quebec, Agreement Concerning a New Relationship between the Government of Canada and the Cree of Eeyou Istchee, Framework Agreement between the Crees of Eeyou Istchee and the Gouvernement du Quebec on Governance in the Eeyou Istchee James Bay Territory and Agreement on Governance in the Eeyou Istchee James Bay Territory Between the Crees of Eeyou Istchee and the Gouvernement du Quebec*.

3.5 Agreement Concerning a New Relationship between le Gouvernement du Québec and the Crees of Quebec

On February 7, 2002, in Waskaganish, Eeyou Istchee, the Grand Council of the Crees (Eeyou Istchee)/Cree Regional Authority and the Government of Quebec executed the 'Agreement Concerning a New Relationship between le Gouvernement du Québec and the Crees of Quebec Agreement' (hereinafter referred to as the 'New Relationship Agreement'). The New Relationship Agreement was approved by Eeyou in local referenda held by Eeyou of Eeyou Istchee.

Quebec and Eeyou of Eeyou Istchee enter into a nation-to-nation agreement which promises to strengthen the political, economic and social relations between Quebec and the Crees.

The New Relationship Agreement marks an important stage in a new nation-to-nation relationship based on openness, mutual respect and a greater responsibility of the Cree Nation for its own development within the context of a greater autonomy.

The Agreement recognizes an important right of Eeyou to benefit from resource development within Eeyou Istchee. For the first time in Canada, the right of Aboriginal People to benefit from resource development within their own lands is recognized.

The New Relationship Agreement has the following purposes:

- 1) Establishment of a new nation-to-nation relationship;
- 2) Assumption of greater responsibility by the Cree Nation for its economic and community development;
- 3) Establishment of means to allow the parties to work together in regard to the development of mining, forestry and hydroelectric resources in the Territory;
- 4) Settlement, with discharges, of the provisions of the *James Bay and Northern Quebec Agreement* pertaining to the economic and community development of Eeyouch;
- 5) Settlement or the withdrawal of certain legal proceedings;
- 6) Consent of Eeyou for the carrying out of the Eastmain 1-A/Rupert Project; and
- 7) Facilitation of the construction of the EM 1 Project. (The Eastmain 1-A/Rupert and EM-1 are hydroelectric development projects to be constructed under the terms and conditions of the Agreement; in particular, in regards to economic development of and by Eeyou. These projects are extensions to the existing hydroelectric development project referred to as le Complexe La Grande (1975) in Section 8 of the *James Bay and Northern Quebec Agreement*.)⁵

For the period of fifty (50) years commencing from April 1, 2002, Eeyou assume the obligations of Quebec concerning economic and community development under certain provisions of the *James Bay and Northern Quebec Agreement*.

For the period from April 1, 2002 to March 31, 2052, Québec shall pay to Eeyou of Eeyou Istchee an annual amount so that Eeyou may assume for that period the obligations of Québec, Hydro-Québec and la Société d'énergie de la Baie James to the Crees under certain provisions of the *James Bay and Northern Québec Agreement* concerning economic and community development.

The assumption of these obligations by Eeyou for Eeyou community and economic development with the annual payments from Quebec will definitely advance Eeyou governance as Eeyou local and regional governments and authorities will determine and control community and economic development.

The Eeyou governing authorities will exercise powers and jurisdiction for the economic development and community development of the Eeyou communities. In fact, particularly over the past three (3) decades, Eeyou governments have been exercising such powers and jurisdiction for economic and community development. The New Relationship Agreement facilitates and streamlines the exercise of such powers and jurisdiction in so far as Eeyou-Quebec relations are concerned.

The New Relationship Agreement refers to separate agreements between the Grand Council of the Crees (Eeyou Istchee) and Hydro-Quebec. These separate agreements promise to promote and facilitate the participation of Eeyou in hydroelectric development in Eeyou Istchee through partnerships, employment and contracts.

The Government of Quebec has undertaken to promote and facilitate the participation of Eeyou in the development of other natural resources such as mining and forestry. This participation of Eeyou was intended in the JBNQA but not implemented.

Eeyou of Eeyou Istchee have agreed to suspend their lawsuits against the Government of Quebec in relation to matters that are purportedly settled by the New Relationship Agreement. In fact, the Government of Quebec hails the New Relationship Agreement as the "Paix des Braves."

However, Eeyou of Eeyou Istchee must adopt and exercise a cautionary and alert approach in the proper implementation of the *Agreement Concerning a New Relationship between le Gouvernement du Québec and the Crees of Quebec*. After all, a peaceful, beneficial and effective nation-to-nation relationship is not simply about the absence of conflict but most importantly such a relationship is about the presence of social justice.

The New Relationship Agreement does not affect the obligations of Canada towards Eeyou including those stipulated in the *James Bay and Northern Quebec Agreement*. Under similar circumstances and for corresponding purposes, the Grand Council of the Crees (Eeyou Istchee)/Cree Regional Authority and the Government of Canada executed the *Agreement Concerning a New Relationship between the Government of Canada and the Cree of Eeyou Istchee*.

3.6 Agreement Concerning a New Relationship between the Government of Canada and the Cree of Eeyou Istchee.

On February 21, 2008, in Mistissini, Eeyou Istchee, the Grand Council of the Crees (Eeyou Istchee)/Cree Regional Authority and the Government of Canada signed the *Agreement Concerning a New Relationship between the Government of Canada and the Cree of Eeyou Istchee*. Paragraph 2.1 of Chapter 2 of this agreement states the following principal purposes:

- a) to establish the basis for a new relationship between Canada and the Cree Nation;
- b) to improve implementation of the JBNQA and to provide for the amendment of certain provisions thereof;
- c) to commit Canada to recommend to Parliament amendments to the *Cree-Naskapi (of Quebec) Act*;
- d) to provide the process for negotiating an agreement and related legislation concerning a Cree Nation Government with powers and authorities beyond the scope of the *Cree-Naskapi (of Quebec) Act* and correlative amendments to the JBNQA and the CNQA. (Such negotiations, if successful, would expand Cree Nation governance beyond the CNQA powers by establishing the structures and powers of a Cree Nation Government and the relationship of such Government with Cree bands and federal and provincial governments);
- e) to provide for the assumption by the CRA, and subsequently by the Cree Nation Government, of certain responsibilities of Canada under the JBNQA for the Term of this Agreement;
- f) to resolve the claims, grievances and other matters between Canada, the GCCEI, the CRA and/or one or several Cree bands as set out in this Agreement; and
- g) to resolve disputes between the Cree Nation and Canada concerning certain of Canada's responsibilities under the JBNQA through the resolution, to the greatest extent possible, of legal proceedings, and to provide a framework for the resolution of future issues that may arise.⁶

Chapter 3 of the *Agreement Concerning a New Relationship between the Government of Canada and the Cree of Eeyou Istchee* sets out the intent of Canada and the Crees to have Canada recognize and equip the CRA with the tools to act as regional government and it also sets out the intent to further develop the Cree Nation Government in a subsequent phase of negotiations.

Furthermore, under the *Agreement Concerning a New Relationship between the Government of Canada and the Cree of Eeyou Istchee*, Canada has undertaken to seek amendments to the *Cree-Naskapi (of Quebec) Act* (CNQA) to achieve the following objectives:

1. To enable the Cree Regional Authority to receive and carry out the assumed federal responsibilities as listed in the Agreement;
2. To equip the Cree Regional Authority with the by-law-making powers similar to those of the Cree Bands under the CNQA; and
3. To expand Cree Nation Governance beyond the scope of the CNQA. (This latter objective is subject to successful negotiations between the Cree and Canada leading to a Governance Agreement, Governance Legislation and possible amendments to the JBNQA and to the CNQA.)

Bill C-28, An Act to Amend the Cree-Naskapi (of Quebec) Act, was introduced in the House of Commons on April 27, 2009. In particular, the legislation amends the *Cree-Naskapi (of Quebec) Act*, in respect of Cree bands and Category IA land,

- a) to provide the Cree Regional Authority with additional responsibilities and powers, including by-law making powers; and
- b) to recognize the Cree of Ouje-Bougoumou as a separate band and a local government under the Act.

In assuming certain responsibilities of the Government of Canada, the Cree Regional Authority has certain obligations in regard to the Cree Nation. For the term of Agreement, the CRA must assume the responsibilities of Canada under the JBNQA in regards to certain aspects of justice, certain Cree regional associations, training and employment services, community centres, essential sanitation services, fire protection and economic development. For this purpose, the CRA recently acquired new powers under the *Cree-Naskapi (of Quebec) Act*. These amendments came into force on February 1, 2010.

Under paragraph 3.10 of Chapter 3 of the *Agreement Concerning a New Relationship between the Government of Canada and the Cree of Eeyou Istchee*, the Cree Nation will develop a Constitution which shall reflect its values and beliefs, be effective as the fundamental law of the Cree Nation, and be consistent with the Governance Agreement.

The representatives of the Cree Nation of Eeyou Istchee are presently engaged in discussions with Canada and the Naskapis to review certain technical amendments to the *Cree-Naskapi (of Quebec) Act* and the JBNQA and to conclude an agreement respecting the Cree Nation Government.

3.7 Framework Agreement between the Crees of Eeyou Istchee and the Gouvernement du Québec on Governance in the Eeyou Istchee James Bay Territory

The governance of Eeyou Istchee - historical and traditional territories - of Eeyou/Eenou has always been an issue of fundamental importance for Eeyou, Quebec and Canada. Governance of Eeyou Istchee was a critical issue in the court cases against Canada and Quebec and subsequently in the negotiations leading to the *James Bay and Northern Quebec Agreement* and its related Agreements concerning new Eeyou-Quebec-Canada relationships. The governance of Eeyou Istchee still remains an issue of fundamental importance for Eeyou/Eenou of Eeyou Istchee.

The governance of Eeyou Istchee has evolved tremendously, especially, over the past four (4) decades due to the implementation of the James Bay and Northern Quebec Agreement and new Cree-Quebec and Cree-Canada relationship Agreements and unilateral legislative initiatives of Quebec such as the establishment of the James Bay Municipality (MBJ) and the Regional Conference of Elected Officers" or "CRÉ. These particular initiatives of Quebec, in effect, excluded the participation of Eeyou/Eenou in the governance of a substantial portion of Eeyou Istchee.

Consequently, Eeyou of Eeyou Istchee initiated legal proceedings on allegations and conclusions against Québec respecting Section 11B (James Bay Regional Zone Council) of the JBNQA.

Recently, Eeyou of Eeyou Istchee have negotiated and signed agreements concerning the governance of Eeyou Istchee with the Government of Quebec.

On May 27, 2011, in Quebec City, the Grand Council of the Crees (Eeyou Istchee) and the Government of Quebec signed the *Framework Agreement between the Crees of Eeyou Istchee and the Gouvernement du Québec on Governance in the Eeyou Istchee James Bay Territory*. This Framework Agreement has the following objectives:

- a) The exercise by the Crees of greater autonomy and greater responsibilities regarding the governance of Category IB and II lands, in particular with respect to governance powers of a local and regional concerning, among other things, the planning and use of the territory and resources;

- b) The modernization of the governance regimes at the regional level on Categories II and III lands situated in the Territory;
- c) The concrete participation by the Crees in the governance of the Category III lands within the Territory in partnership with the other residents of the Territory;
- d) The strengthening of the Nation-to-Nation relationship between the Cree Nation and the Québec Nation, based on the common will of the parties to continue the development of the Territory for the benefit of the residents of the Territory and the entire population of Québec and to seek the flourishing of the Crees within a context of growing modernization;
- e) The assumption of greater responsibility by the Cree Nation in relation to its political, governmental and economic development and, in so doing, the achievement of increased autonomy with a greater capacity to respond, in partnership with Québec, to the needs of the Cree population;
- f) The definitive settlement or definitive withdrawal of certain legal proceedings and the settlement of the dispute between the Crees and Québec.⁷

The Cree Nation Government shall exercise jurisdictions, functions and powers over Category II lands under Québec laws as outlined in this Agreement and provided for in the Final Agreement, with respect to, in particular, municipal management, management of natural resources and land management.

Moreover, the Cree Nation Government shall have the right, at its request, to exercise certain other jurisdictions, functions and powers, as adapted to take into account the context of Category II lands and the institutional capacity of the Crees. Such adaptations shall be subject to agreement between the Crees and Québec.

The Municipalite de la Baie James (MBJ) shall be abolished and replaced by a public, regional government that shall be established by statute of Québec with the name of "Gouvernement regional d'Eeyou Istchee Baie-James" in French, and "Eeyou Istchee James Bay Regional Government" in English ("Regional Government").

The Regional Government shall succeed, upon its establishment, to the rights, powers, assets and obligations of the MBJ, in accordance with modalities to be determined in the Final Agreement.

The Regional Government shall have jurisdiction over the Category III lands now comprised in the territory of the MBJ.

The governing structure of the Regional Government shall be composed of representatives of the Crees and of residents of the Municipalities as well as, during the first five years of operation of

the Regional Government, representation of Quebec central government. The governing structure of the Regional Governance is a form of public governance.

The financial arrangements pertaining to the governance of Category II and III lands shall be determined in the Final Agreement.

3.8 Agreement on Governance in the Eeyou Istchee James Bay Territory Between the Crees of Eeyou Istchee and the Gouvernement du Québec

On July 24, 2012, Eeyou of Eeyou Istchee and the Government of Quebec signed the '*Agreement on Governance in the Eeyou Istchee James Bay Territory Between the Crees of Eeyou Istchee and the Gouvernement du Québec*.' This latter Agreement is also a settlement on certain legal proceedings initiated Eeyou of Eeyou Istchee against the Government of Québec.

The '*Agreement on Governance in the Eeyou Istchee James Bay Territory Between the Crees of Eeyou Istchee and the Gouvernement du Québec*' replaces the '*Framework Agreement Between the Crees of Eeyou Istchee and the Gouvernement du Québec on Governance in the Eeyou Istchee James Bay Territory*.'

General Provisions

The Government of Quebec and the Crees of Eeyou Istchee agree to place emphasis in their relations on those aspects that unite them as well as on their common desire to continue the development of Northern Québec and the self-fulfillment of the Cree Nation, which must continue to benefit from its rich cultural heritage, its language and its traditional way of life in a context of growing modernization.

Quebec and the Crees enter into a nation-to-nation agreement which will provide for the modernization of the governance regime in the Territory and the inclusion of the Crees in this governance regime.

The Agreement aims to promote greater autonomy and greater responsibility on the part of the Crees for governance on Category II Lands in the Territory, in particular with respect to land and resource planning and use.

This Agreement also provides for greater participation by the Crees in the governance of the Category III Lands in the Territory in partnership with the Jamésiens.

This Agreement is based on a governance model which relies on the principles of sustainable development, partnership and respect for the traditional way of life of the Crees in accordance

with the provisions of the *James Bay and Northern Québec Agreement* and the *Agreement concerning a New Relationship between le Gouvernement du Québec and the Crees of Québec* concluded on February 7, 2002 ("*Paix des braves*") as well as the government orientations and policies as adapted to take into account the context of the Crees.

This Agreement marks another important stage in the new Nation-to-Nation relationship contemplated in the *Paix des braves*, one that is open and respectful and that promotes a greater responsibility on the part of the Cree Nation for its own development within the context of greater autonomy.

This Agreement shall promote the emergence of Cree expertise in the fields of local and regional governance, land and resource planning and use, for the benefit of the Crees and of Québec in general.

In order to promote the autonomy and development of the Cree Nation, to modernize the public governance regimes in the Territory and to ensure economic growth in the Territory for the benefit of all its residents and the entire population of Québec, this Agreement has the following objects:

- (a) the exercise by the Crees of greater autonomy and greater responsibilities regarding the governance on Category II Lands, in particular with respect to governance powers of a local, municipal and regional nature under Québec laws concerning, among other things, the planning and use of the territory and resources;
- (b) the modernization of the municipal and regional governance regimes under Québec laws on Category III Lands in order to ensure the equitable representation and participation by the Crees and the Jamésiens;
- (c) the definitive settlement or definitive withdrawal of the Legal Proceedings; and
- (d) the definitive settlement of the dispute between the Crees and Québec regarding (i) the *Act to amend the James Bay Region Development Act and other legislative provisions* and (ii) the *Act respecting the Ministère du développement économique et régional et de la Recherche* with respect to the Regional Conference of Elected Officers and the Regional Development Fund referred to, in part, in the notice of dispute dated April 17, 2007 sent by then Grand Chief Matthew Mukash to Minister Benoît Pelletier and in the exchange of letters dated February 25, 2010 between Grand Chief Dr. Matthew Coon Come and Premier Jean Charest.⁸

Except when expressly provided in this Agreement, nothing in this Agreement or any complementary agreement amending the JBNQA or any legislation giving effect to this Agreement shall affect or prejudice or shall be interpreted in such a way as to affect, modify or prejudice the rights, privileges and benefits of the Crees and of Québec under the JBNQA (including the continuation of the present system of Cree Trappelines), the *Paix des braves* or under any other agreement or undertaking to which the Crees and Québec are parties.

The governance regimes provided for in this Agreement in respect of Category II Lands and Category III Lands shall not apply to the Category II Lands of Whapmagoostui and to the Cree family traditional territories, or Cree Traplines, north of the 55th parallel unless an agreement is reached to this effect between the Crees and Makivik Corporation and it is approved by Québec.

Cree Governance on Category IB Lands

The Parties undertake to examine and to negotiate, within five (5) years of the coming into of this Agreement and in the context of the JBNQA, suitable arrangements with respect to Cree governance on Category IB Lands with the objective of ensuring its operational effectiveness, simplicity and technical and financial viability.

Cree Governance on Category II Lands

The Cree Regional Authority shall continue to exist as the same legal person. It shall be designated under the name "Eeyou Tapayatachesoo" in Cree, "Cree Nation Government" in English and "Gouvernement de la nation crie" in French. Its structure and composition shall remain as at present until otherwise agreed by the Parties.

The Cree Nation Government may exercise jurisdictions, functions and powers, and shall, if applicable, assume the obligations related thereto, over Category II Lands under Québec laws with respect to:

- a) municipal and regional management, management of natural resources and management of land, as provided for in this Agreement;
- b) any other matter that may be agreed from time to time by the Cree Nation Government and Québec.

It may also exercise the jurisdictions, functions and powers attributed immediately before the coming into force of this Agreement to the Municipalité de Baie-James and the James Bay Regional Zone Council in respect of Category II Lands.

The Cree Nation Government may, by resolution, declare with respect to all or any part of Category II Lands that it shall exercise any of the jurisdictions, powers and functions attributed from time to time by the law to an MRC (a regional county municipality), with regard to any of the following matters:

- a) the planning of land use and development in its territory, as provided for in the *Act respecting land use planning and development* or any successor legislation including, in particular, the development of a land use and development plan, a strategic vision for economic, social, cultural and environmental development and the other elements pertinent for the planning exercise provided for in the *Land Use Act*. Such land use and development plan and strategic vision shall be consistent with the policies, principles and

objectives to be determined by the Cree Nation Government in consultation with the Cree Communities and with the concurrence of Québec;

- b) regional economic development;
- c) territorial development plans;
- d) establishment of a fund to provide financial support for operations to develop land or forest resources;
- e) management of watercourses and lakes;
- f) establishment and management of regional parks;
- g) power;
- h) planning of residual matter (waste) disposal;
- i) any other jurisdiction, function or power that is attributed or may be attributed from time to time to an MRC or successor body pursuant to the laws of Québec.

The Cree Nation Government may exercise the powers of an MRC (a regional county municipality) with respect to the promotion of local development and entrepreneurial support within Category I Lands and Category II Lands and with respect to the residents thereof. To that end, the Cree Nation Government may more particularly:

- a) offer a full range of front-line services to businesses, possibly in partnership with persons or bodies including those from the private sector, by grouping or coordinating those services and providing funding for them;
- b) develop a local plan of action to stimulate the economy and create employment taking into account the five-year development plan established by the CRÉ (Regional Conference of Elected Officers) in its territory and see to the implementation of the local plan of action;
- c) formulate, in keeping with the policies, principles and objectives determined by the Cree Nation Government in consultation with the Cree Communities, a strategy for the development of entrepreneurship, including social economy entrepreneurship; and
- d) act as an advisory body for the benefit of the local employment centre serving its territory.

As soon as possible after the coming into force of this Agreement, the James Bay Regional Zone Council shall be dissolved and its rights, functions, assets and liabilities shall vest in the Cree Nation Government.

The Cree Nation Government shall be deemed to act as a Regional Conference of Elected Officers (CRE-CNG) for the Crees and with respect to Category I Lands and Category II Lands.

The Cree Nation Government, in consultation with the Cree Communities, may exercise all the powers and have all the responsibilities of a CRÉ (Regional Conference of Elected Officers) and a CRRNT (Regional Land and Natural Resource Commission), as provided for in Québec laws. In this regard, the Cree Nation Government may:

- a) act as primary interlocutor of Québec as regards regional development;
- b) evaluate local and regional planning and development bodies;
- c) promote concerted action among partners in the region;
- d) give advice to the ministre des Affaires municipales, des Régions et de l'Occupation du territoire on regional development matters;
- e) establish a five-year development plan that identifies general and specific development objectives for the region;
- f) enter into specific agreements with government departments or bodies and other partners, to exercise its powers and responsibilities;
- g) administer the funds entrusted to it by Québec under an agreement for the carrying out of any regional development project under the authority of the Minister who has signed the agreement;
- h) assume, where applicable, the management of a part of the Regional Development Fund in accordance with the provisions of the *Act respecting the Ministère des Affaires municipales, des Régions et de l'Occupation du territoire*;
- i) prepare a Regional Land and Resource Use Plan, which shall have at least the same scope as a Regional Plan for Integrated Land and Resource Development;
- j) assume any other power and responsibility as may be attributed from time to time to a CRÉ (Regional Conference of Elected Officers) or CRRNT (Regional Land and Natural Resource Commission) or their successor bodies.

The Cree Nation Government shall exercise its jurisdictions, functions and powers taking into account the following:

- a) the policies, principles and objectives to be determined by the Cree Nation Government in consultation with the Cree Communities and with the concurrence of Québec;
- b) the special vocation of Category II Lands for the Crees under the JBNQA; and
- c) the status of Category II Lands as lands in the domain of the State (subject to the provisions of the JBNQA, including Sections 5 and 24), concerning, in particular, public access to lands in the domain of the State and free circulation, having due regard to Cree harvesting rights and land use and occupation on Category II Lands.

Québec undertakes to negotiate, at the latest by March 31, 2013 or within such longer period as the Parties may agree, an agreement with the Cree Nation Government, pursuant to which the Cree Nation Government may assume management responsibilities for sand and gravel on Category II Lands.

Québec shall fund the Cree Nation Government in accordance with five-year funding agreements, the first of which is set forth in this Agreement. The Crees and Québec shall negotiate and agree on subsequent five-year funding arrangements.

The Cree Nation Government shall possess all the powers required to fulfill the obligations stipulated in an agreement to which it is party with Québec, one of its ministers and agencies or with a mandatory of the State.

Governance on Category III Lands

Upon the coming into force of the legislation mentioned in this Agreement, the Municipalité de Baie-James shall cease to exist and shall be replaced by a public regional government established by statute of Québec. This legal person in the public interest shall be a municipal body under the name of "Gouvernement régional d'Eeyou Istchee Baie-James". The Regional Government may also be designated by the name of "Eenou Chishaachimaau", in Cree, and of "Eeyou Istchee James Bay Regional Government", in English. The Regional Government shall comprise representation of the Crees and the Jamésiens as provided for in this Agreement.

The Regional Government shall, subject to certain provisions of this Agreement, have jurisdiction over the Category III Lands situated in the Territory.

The governing structure of the Regional Government shall be a council composed of representatives of the Crees and of the Jamésiens as well as, during the first five years of operation of the Regional Government, a representative of Québec. The representation of Québec shall be re assessed after the first five years of operation.

During the first five years of operation, the Crees and the Jamésiens shall have parity of votes on the council of the Regional Government. The council of the Regional Government shall comprise 22 seats and 44 votes, allocated equally between the Crees and the Jamésiens. An additional seat shall be allocated for Québec, without the right to vote.

The representatives of the Crees shall be designated by the Crees from among their elected officers. The representatives of the Jamésiens shall be designated by Québec from among the members of the councils of the Municipalities and the residents of the Territory. The allocation of votes among the representatives of the Jamésiens shall be determined by Québec, taking into account, in particular, the demographic weight of each of the Municipalities and of the residents of the Territory.

After the first ten years of operation of the Regional Government, representation and voting rights of the Crees and the Jamésiens on the council of the Regional Government shall be based on resident population in accordance with a formula to be agreed by the Crees and Québec based on democratic principles and demographic realities. Thereafter, representation of the Crees and of the Jamésiens on the council of the Regional Government shall be reassessed every ten (10) years.

The Regional Government shall act through its council in exercising its powers and carrying out its duties. The council shall act by resolution, except where required by this Agreement or by law to act by by-law. By-laws may be enacted and resolutions adopted only at council meetings.

Subject to this Agreement, the council may make and enforce rules and regulations for its internal government and for the maintenance of order during its meetings.

Cree and French shall be the principal languages of the Regional Government. However, the Regional Government may use either French or English in its internal communications and language of work.

A citizen may communicate verbally or in writing with the Regional Government, including at meetings of the council, in Cree, English or French.

Texts and documents intended for Cree individuals or for the Cree population in general shall be translated into Cree and English, including any document enabling the users to exercise a right or meet an obligation.

The Regional Government shall possess and exercise the same jurisdictions, functions and powers on Category III Lands as those currently attributed to the Municipalité de Baie-James, save for the provisions thereof inconsistent with the provisions of this Agreement and of the law constituting the Regional Government.

In addition to the jurisdictions, functions and powers attributed to it hereinafter, the Regional Government may assume and exercise any other jurisdiction, function and power that may be the object of an agreement from time to time between the Regional Government and Québec.

The Regional Government may, by resolution, declare with respect to all or any part of Category III Lands that it shall exercise any jurisdiction, function and power attributable by law to an MRC (a regional county municipality within the meaning of the *Act respecting Municipal territorial organization* "Municipalité de comté régionale" or "MRC") with regard to any of the following matters:

- a) the planning of land use and development in the Territory, as provided for in the *Land Use Act*, including, in particular, the development of a land use and development plan, a strategic vision for economic, social, cultural and environmental development and the other elements pertinent for the planning exercise provided for in the *Land Use Act*. The land use and development plan shall comply with the governmental orientations regarding land use developed in the framework of its law with regard to all or any part of Category III Lands. In developing these orientations, Québec shall take account, in particular, of the specific character of these lands, the participation of the Crees and Jamésiens in their management as well as the particular issues related to the development of the resources in a perspective of sustainable development, the whole in concurrence with the Regional Government;
- b) regional economic development;

- c) establishment of a fund to provide financial support for operations to develop land or forest resources;
- d) management of watercourses and lakes;
- e) establishment and management of regional parks;
- f) power;
- g) planning of residual matter (waste) disposal;
- h) any other jurisdiction, function or power that may be attributed from time to time to an MRC (Regional County Municipality) or successor body pursuant to the laws of Québec.

Subject to provisions regarding the CRÉ-BJ (the Regional Conference of Elected Officers established for the territory of the Municipalité de Baie-James and the territories of the cities of Chapais, Chibougamau, Lebel-sur-Quévillon and Matagami) in this Agreement, the Regional Government shall, with respect to Category III Lands, exercise all the powers and have all the responsibilities of a CRÉ (Regional Conference of Elected Officers), as provided for in Québec laws.

The Regional Government shall exercise the functions of a CRRNT (Regional Land and Natural Resource Commission), including the preparation of a PRDIRT (Regional Plan for Integrated Land and Resource Development), in respect of:

- a) Category III Lands, and
- b) the public lands situated in the territory of the Municipalities.

In this capacity, the Regional Government shall consult the Cree Nation Government with a view to harmonizing, as much as possible, its PRDIRT (Regional Plan for Integrated Land and Resource Development) and the RLRUP (Regional Land and Resource Use Plan) of the Cree Nation Government.

Québec and the Regional Government may negotiate the terms and conditions regarding the participation of the Regional Government in the preparation of the PATP ((Public Land Use Plan) on Category III Lands.

The Regional Government shall possess all the powers required to fulfill the obligations stipulated in an agreement to which it is party with the Government of Quebec or, if the agreement at issue is one excluded from the application of the *Act respecting the Ministère du Conseil exécutif* or for the conclusion of which prior authorization was obtained under this Act, with the Government of Canada or one of its ministers, agencies or mandataries.

Funding shall be provided by Quebec to support the Eeyou Istchee James Bay Regional Government in the manner stated in this Agreement.

The Legal Proceedings shall be definitively discontinued by the Cree parties thereto without costs, and Québec undertakes to accept such discontinuance, without costs. The Dispute shall be definitively settled by the Cree parties thereto without costs, and Québec undertakes to accept such settlement, without costs.

The Parties undertake to negotiate, within six (6) months of the coming of this Agreement, a complementary agreement to the JBNQA so as to include therein, in particular, the provisions of this Agreement.

Québec undertakes to submit to and to recommend to the Assemblée nationale the special legislation relating to this Agreement and the amendments to its laws of general or specific application in order to ensure their consistency with this Agreement and the complementary agreement mentioned in this Agreement. Québec shall make its best efforts to recommend this special legislation and these amendments to the Assemblée nationale without delay after the coming into force of this Agreement. Québec shall consult the Cree Regional Authority with respect to the legislation to be recommended prior to the submission thereof to the Assemblée nationale.

This Agreement is neither a treaty nor a land claim agreement within the meaning of sections 25 and 35 of the *Constitution Act, 1982*. However, the provisions of this Agreement that will be incorporated into the JBNQA shall have constitutional protection under sections 25 and 35 of the *Constitution Act, 1982* once the required amendments have been made to the JBNQA in accordance with this Agreement.

3.9 Bill 42 – An Act establishing the Eeyou Istchee James Bay Regional Government and introducing certain legislative amendments concerning the Cree Nation Government

On June 13, 2013, the Assemblée nationale enacted and adopted Bill 42 – An Act establishing the Eeyou Istchee James Bay Regional Government and introducing certain legislative amendments concerning the Cree Nation Government.

Grand Chief Matthew Coon Come of the Grand Council of the Crees (Eeyou Istchee) in his statement to the Committee on Planning and the Public Domain of the National Assembly of Quebec on Bill 42 stated:

"Bill 42 is the legislation that will implement the *Agreement on Governance in the Eeyou Istchee James Bay Territory*. Bill 42 is therefore legislation of fundamental importance, for it will define a new partnership in governance between the Cree Nation of Eeyou Istchee, our neighbours, the Jamésiens, the Gouvernement du Québec and all Québécois." ⁹

This bill establishes the Eeyou Istchee James Bay Regional Government in the stead of the Municipalité de Baie-James, as of 1 January 2014. It provides that the Eeyou Istchee James Bay Regional Government is a municipal body governed by the *Cities and Towns Act*, subject to the special provisions it sets out, and that the Regional Government has jurisdiction over Category III lands, that is, the territory of Municipalité de Baie-James as it existed on 31 December 2013, except for the Category II lands.

Rules governing the Regional Government's council, in particular, rules concerning the council's composition, the manner in which its members are designated and the distribution of votes among them are set out. For the first ten (10) years of operation of the Regional Government,

representation and votes will be allocated equally between the Cree and Jamésiens. This allocation will be reviewed every ten (10) years in accordance with a formula to be agreed based on democratic principles and demographic realities. Until such an agreement has been entered into and implemented by legislation, the Cree and Jamésiens will continue to have equal representation and votes in the council. During the first five (5) years, Quebec will have non-voting representation on the council.

The Regional Government maintains essentially the powers currently exercised by Municipalité de Baie-James and may, in addition, affirm its jurisdiction regarding fields of jurisdiction belonging to a regional county municipality. The Regional Government may also, when requested to do so by the Cree community or the municipality concerned, affirm its jurisdiction regarding any municipal, local or regional jurisdiction on the territory of the Cree communities or the territory of Ville de Chibougamau, Ville de Chapais, Ville de Lebel-sur-Quévillon or Ville de Matagami, which are designated as the enclosed municipalities.

The Regional Government is deemed to act as a regional conference of elected officers for its territory and, where the functions exercised by a regional land and natural resource commission are concerned, it also acts in that capacity for the territory of the four enclosed municipalities.

In cases where the Regional Government affirms its jurisdiction regarding land use, specific government policy directions must be established by the Gouvernement du Québec in consultation with the Regional Government.

The *Act respecting the Cree Regional Authority* is amended so that the Cree Regional Authority will be known, as of January 1, 2014, as the Cree Nation Government. Certain powers with respect to Category II lands are assigned to the Cree Nation Government. In particular, it is provided that the Cree Nation Government may affirm its jurisdiction over all or part of Category II lands, with respect to any field of jurisdiction attributed by an Act to a local municipality or a regional county municipality.

If the Cree Nation Government affirms its jurisdiction with respect to the strategic vision statement and the land use planning and development plan mentioned in the Act respecting land use planning and development, these documents must be consistent with the policy directions, principles and objectives the Cree Nation Government determines, in consultation with the Cree communities and with the approval of the Gouvernement du Québec. The documents must be approved by the Minister of Municipal Affairs, Regions and Land Occupancy.

The Cree Nation Government is deemed to act as a regional conference of elected officers for the Cree and with respect to Category I and Category II lands. In that capacity, it establishes the Eeyou Planning Commission in lieu of the regional land and natural resource commission provided for in the Act respecting the Ministère des Affaires municipales, des Régions et de l'Occupation du territoire. The Commission's function is to prepare a regional land and resource use plan for Category II lands, which replaces the regional plan for integrated land and resource development provided for in that Act. A specific process by which this plan is submitted to the approval of the Minister of Natural Resources is set out.

The Cree Nation Government is invited to take part in the development of the public land use plan for Category II lands and a specific procedure is established for that purpose.

With regard to local development, the regional conference of elected officers for James Bay and the Cree Nation Government may enter into agreements with the minister responsible for agreements concerning local development centres, the regional conference of elected officers may provide for the financing of its local development centre through contributions made by the Regional Government and the four enclosed municipalities, and the Cree Nation Government may exercise jurisdiction over local development, instead of entrusting it to a centre. In doing so, the Cree Nation Government must take into account the policy directions, strategies and objectives it determines in consultation with the Cree communities.

The James Bay Region Development and Municipal Organization Act is amended to, among other things, encourage the Regional Government and the Cree Nation Government to participate in the activities of the Société de développement de la Baie James.

Lastly, various consequential, transitional and final provisions are introduced.

On January 1, 2014, the *Act establishing the Eeyou Istchee James Bay Regional Government and introducing certain legislative amendments concerning the Cree Nation Government* came into force.

The Cree Regional Authority became known as the Cree Nation Government and the Eeyou Istchee James Bay Regional Government was established in the stead of the Municipalité de Baie-James.

4. Summary and Conclusion

The spirit and intent of the *James Bay and Northern Quebec Agreement* and its related agreements requires Canada and Quebec to respect the inherent right of the Eeyou nation to govern its own affairs and territories. Implicit in this principle, of course, is the right of the Eeyou nation to enter into intergovernmental relations with Canada and Quebec, to acquire the benefits of such agreements, and to acquire the responsibilities and burden of self-governance.

In this regard, the Eeyou nation has asserted and exercised its right of self-determination and has entered into a modern day treaty (*James Bay and Northern Quebec Agreement*) and related agreements with Canada and Quebec. In entering into such nation-to-nation agreements with Eeyou, Canada and Quebec have already acknowledged their self-governing nation status.

The assertion of their inherent right of self-determination arising from their status as distinct or sovereign peoples entitles Eeyou to determine their own future within Canada and to govern themselves under institutions of their own choice and design.

The Eeyou nation's vision of Eeyou governance is one in which Eeyou are free to determine the form of political organization and government that is appropriate for them.

Eeyou have a special spiritual relationship to their land ...Eeyou Istchee. Eeyou also consider their culture, language and traditions as fundamental and central to their collective and individual identities. Therefore, Eeyou vision of self-government embraces two distinct but related goals. The first involves greater authority over Eeyou Istchee and its inhabitants, whether this territory be exclusive Eeyou or shared with others. The second involves greater control over matters that affect Eeyou in question: its culture, identity and collective well-being.

Consequently, Eeyou of Eeyou Istchee have chosen and taken the following principal paths and arrangements for governance of Eeyou Istchee:

- a) traditional Eeyou system of governance and authority for each Indoh-hoh Istchee (Eeyou Hunting Territories);
- b) local government that involve a broad measure of Eeyou authority on an exclusive territorial base (Category IA and IB lands);
- c) Eeyou Nation Government that involve a broad measure of Eeyou authority on an exclusive (Category IA land) and non-exclusive (Category II land) territorial base; and
- d) public regional government (Eeyou Istchee James Bay Regional Government) that allow for significant Eeyou participation in decision-making over shared lands (Category III land) and resources.

The reconciliation of Eeyou pre-existing and inherent rights with the sovereignty of the Crown has been, and continues to be, a major political, legal/constitutional and socio-economic challenge.

For Eeyou of Eeyou Istchee, mutual recognition of coexisting and self-governing peoples and nations is basic and fundamental in the continuing Eeyou relationships with Canada and Quebec.

This journey and shift to self-government is a fundamental aspect of nation-building as Eeyou of Eeyou Istchee have reclaimed governance as an aboriginal right and activity.

For Eeyou of Eeyou Istchee, the JBNQA was meant to bring about the sharing of powers and responsibilities in the governance of Eeyou Istchee.

At the inauguration of the Eeyou Istchee James Bay Regional Government held in Waskaganish, Eeyou Istchee, on January 20, 2014, Grand Chief Matthew Coon Come of the Grand Council of the Crees (Eeyou Istchee) stated:

"Today marks the culmination of our efforts to build with the Jamésians and with Québec a truly inclusive form of governance in the Eeyou Istchee Bay James territory. With the new Regional Government, we are turning the page on the old politics of exclusion, and embarking on a new partnership in governance between the Crees and Jamésians. In so doing, the Regional Government gives life to the original vision in the *James Bay and Northern Québec Agreement* of 1975 of a partnership in governance of the Territory. We are building something never before seen in Québec. We know that the success of our new Regional Government will depend on what we, Crees and Jamésians, make of it. So let us now, together, get down to the hard work of governing."¹⁰

END NOTES

1. This chapter is an amended update to Chapter 3 – Eeyou Nation-Building through Eeyou Governance – of the 2012 Report of the Cree Naskapi Commission
2. *James Bay and Northern Québec Agreement* and Complementary Agreements- 2006 Edition- Les Publications du Québec, paragraph 24.1.9 of subsection 24.1, Section 24, page 359
3. *James Bay and Northern Québec Agreement* and Complementary Agreements- 2006 Edition- Les Publications du Québec, paragraph 24.1.8 of subsection 24.1, Section 24, page 359.
4. Report of the Royal Commission on Aboriginal Peoples, Minister of Supply and Services Canada 1996, Volume 2 (Restructuring the Relationship) – Chapter 3 (Governance), pages 299 and 300.
5. Paragraph 2.5 of Chapter 2 (General Provisions) of the *Agreement Concerning a New Relationship between le Gouvernement du Québec and the Crees of Québec*
6. Paragraph 2.1 of Chapter 2 (General Provisions) of the *Agreement Concerning a New Relationship between the Government of Canada and the Cree of Eeyou Istchee*
7. Paragraph 6 of Chapter II (Objectives and Principles) of the *Framework Agreement between the Crees of Eeyou Istchee and the Gouvernement du Québec on Governance in the Eeyou Istchee James Bay Territory*.
8. Paragraph 2 of Chapter II (General Provisions) of the *Agreement on Governance in the Eeyou Istchee James Bay Territory Between the Crees of Eeyou Istchee and the Gouvernement du Québec*
9. Speaking Notes of Grand Chief Dr. Matthew Coon Come to the Committee on Planning and the Public Domain of the National Assembly of Québec on Bill 42, Québec City, May 29, 2013
10. Address by Grand Chief Dr. Matthew Coon Come at the Inauguration of the Eeyou Istchee James Bay Regional Government, Waskaganish, Eeyou Istchee, January 20, 2014