

**SUMMARY OF THE AGREEMENT-IN-PRINCIPLE OF GENERAL NATURE
BETWEEN
THE FIRST NATIONS OF MAMUITUN AND THE FIRST NATION OF
NUTASHKUAN
AND
THE GOVERNMENT OF QUÉBEC
AND
THE GOVERNMENT OF CANADA**

The Agreement-in-principle of general nature (hereinafter referred to as the "Agreement-in-principle") signed on March 31, 2004 between the first Nations of the Betsiamites, Essipit, Mashteuiatsh and Nutashkuan and the governments of Quebec and Canada is the result of a concerted Approach upon which the parties agreed on January 19, 2000.

The Agreement-in-principle does not create legal obligations binding the Parties; in it the parties have agreed upon the structure, general direction, and the principles that will guide the drafting of a subsequent final agreement. The latter will be legally binding, since it will constitute a land claims agreement and a treaty within the meaning of sections 25 and 35 of the *Constitutional Act*, 1982. Any complementary agreements that may be concluded will not be part of the Treaty and will therefore not be constitutionalized except where provided for by the Treaty.

The Agreement-in-principle includes a preamble of nineteen (19) chapters, the most important of which deal with the legal scope of the Treaty to be concluded, a territorial regime, Innu aitun¹ activities, management of lands, natural resources and the environment, self-government, financial and tax arrangements, and socio-economic development.

Preamble of the Treaty

Chapter 2 gives a broad outline of what will be the preamble of the future Treaty. Some of the points in the preamble are repeated and developed in the next chapter on the general provisions. The conclusion of a Treaty represents a political choice that will ensure the recognition, confirmation, and continuation of the aboriginal rights of the First Nations, including aboriginal title. It will be specified in the Treaty that the parties seek to reconcile the prior presence of the First Nations with the assertion of the sovereignty of the Crown.

The Treaty will also specify that the relationship and bond between the First Nations and their ancestral territory, Nitassinan, are of fundamental importance for their distinctive culture, and these will be protected in the Treaty. The aboriginal rights of the First Nations will not be defined, but their

¹ All activities, in their traditional or modern manifestation, relating to the national culture, fundamental values and traditional lifestyle of the Innus associated with the occupation and use of Nitassinan (or ancestral territory) and to the special bond they have with the land.

legal effects and the manner in which they are exercised in a modern context will be described in the Treaty; it will allow for their orderly evolution in a framework that establishes certainty as regards the ownership and use of the lands and resources of Nitassinan and as regards the relationship between the Canadian, Quebec and Innu laws. It will recognise the need for socio-economic catching up by the Innus.

General provisions

Chapter three contains provisions relative to the purpose and scope of the Agreement-in-principle, the nature of the Treaty, the recognition of aboriginal rights, certainty, territorial application, the languages of the Treaty, and access to information.

The Treaty will recognize, affirm, continue, and protect the aboriginal rights of the First Nations; they will have the effects and will be exercised in the manner provided for in the Treaty in Nitassinan and outside Nitassinan. The Treaty will not seek to exhaustively enumerate or replace the aboriginal rights. The rights of the Crown covered by the Treaty will henceforth be exercised with respect to the lands of Nitassinan in accordance with the provisions of the Treaty. Neither the Treaty nor the implementation legislation will have the effect of infringing on the rights of the First Nations outside the limits of Quebec, particularly in the territory of Labrador. However, a provision in chapter 10 on financial arrangements provides a release for the benefit the governments of Quebec and Canada for any damage or infringement of aboriginal rights of the First Nations which occurred prior to the date of the Treaty.

Self-government as an inherent right is included among the aboriginal rights, and it will have the effects and be exercised by each First Nation on Innu Assi,² and when the Treaty so provides, outside of Innu Assi.

Territorial application

The status of the Southwestern Part of the territory and of Nitassinan covered by the James Bay and Northern Quebec agreement and the Northeastern Quebec Agreement will be finalized prior to the signing of the Treaty.

Nitassinan of the First Nations is delimited, but the boundaries may be adjusted to take into account the territories of Atikamekw, Uashat Mak Mani-Utenam, and Mamit Innuat. The preliminary area and delimitation of the Innu Assi territory are described, as well as the area of heritage sites and Innu parks. Details for the First Nation of Nutashkuan will be specified in the near future. Some heritage sites will have Innu Assi status, while others will be subject to Quebec regulations to protect their heritage nature. These regulations will be mutually agreed upon.

The full ownership of Innu Assi includes the right to exploit the fauna, aquatic, water, hydraulic, forest, floral and mineral resources therein. However, on the Innu Assi of Nutashkuan, hydraulic and subsurface resources are excluded, but this First Nation has the right of consent to their exploitation and a 25% undivided share in the ownership of minerals and subsurface rights.

²Wholly owned Innu lands.

The Innu parks will be exclusively managed by the Innu tshishe utshimaut (Innu governments) under a perpetual trust or a long-term lease renewable in perpetuity.

The parties will continue to analyze the design, principles and location of Innu planning and development areas.

The right to the practice of Innu Aitun

Chapter 5 provides for the recognition, continuity, general objectives pursued, and framework for the right to the practice of Innu Aitun. The parties will promote compatibility between the right to practice Innu Aitun and the exploitation of natural resources, sustainable development, conservation of species, protection of wildlife habitats and biodiversity. These provisions take into account the priority of the Innus to harvest wildlife and the sharing of wildlife resources with other users.

The parties will recognize and draw on the knowledge and traditional expertise of the Innus in managing the fauna and managing the territory, natural resources and the environment.

The practice of Innu Aitun will be governed by the laws and regulations enacted by the Innu legislative assemblies. Innu legislation will be enforced by territorial officers.

Innu priority in harvesting of all species is recognized. However, as regards sale for subsistence purposes, some species considered sensitive, such as moose, woodland caribou, salmon and ouananiche, crab, lobster, shrimp, scallop, cod, turbot and other species which may be agreed upon prior to the signing of the Treaty, are excluded. For these species, the Innus will have priority in harvesting for food, social or ritual purposes.

The parties will harmonize their respective laws and regulations through complementary agreements, which will be implemented by a joint committee with equal representation. For so-called "sensitive" species mentioned above, and for territories with structured resource management, such agreements will be concluded prior to the signing of the Treaty.

Permits, certificates and authorizations will be issued to the Innu by the Innu Tshishe Utshimaut.

There will be regular consultations on wildlife management, and the Innus will participate in strategies concerning fauna conservation, protection and development.

Participation in management of lands, natural resources and the environment.

Within their respective jurisdictions, the governments of Canada and Quebec undertake to ensure the genuine and significant participation of the Innu tshishe utshimaut in the decision-making processes relating to the management of land, environment and natural resources on Nitassinan.

This participation in the protection of the rights of the Innus is termed distinct, i.e., it takes place on a government to government basis, and must begin as far upwards as possible in existing

processes, which may be adjusted or replaced by new processes where the current processes are deemed inadequate.

Considering the innovative nature of this approach, the participation by the Innus in the process of managing the land, natural resources and the environment will be on a voluntary and experimental basis prior to the signing of the Treaty.

Royalties

Chapter 7 provides that the Innu Tshishe Utshimaut will be entitled to a share of the royalties collected by the government of Quebec on the natural resources of Nitassinan, which will not be less than 3%.

Self-government

The First Nations will adopt their own constitutions in compliance with the framework of jurisdictions and powers established in the Treaty. The legal status of the First Nations will be recognized in the Treaty, and they will be able to exercise legislative, executive and judicial powers inherent in their autonomy.

The First Nations will enjoy a general power to enact laws on any matter related to the organization, general welfare, development and good government of their communities, members and institutions. This power will apply essentially to Innu Assi and any persons on that territory, and in certain areas specified in the Treaty, such as Innu Aitun, to Nitassinan. Certain Innu laws may apply to Innus of First Nations wherever they are outside of Innu Assi, provided that the affected Innus voluntarily agree to their application and that these laws are compatible with the laws in effect in the place in question.

With the exception of “Indian” status, Innu laws will take precedence over the federal Indian Act in areas specified by the Treaty. In provincial affairs, Innu laws on the functioning of their governments and institutions, rights and benefits ensuing from the Treaty, private law, protection of the language, heritage,³ culture and identity, Innu Aitun⁴, control and management of Innu Assi and its resources, the environment,⁵ preschool, elementary, high-school and adult education, vocational training, compulsory education and financial student aid, family law, public security, health and social service agencies and childhood organizations, traditional medicine,⁶ income security, labour training and development, standards of quality and authenticity of Innu handcraft trade and art trade.

Harmonization agreements will be agreed upon between the Parties concerned prior to the signing of the Treaty in the areas of practice of Innu Aitun, protection of habitats, use of water and good

³ On Innu Assi and on wholly owned heritage sites.

⁴ Except the regulation of trade and commerce and subject to measures for the conservation of the resource, the protection of the habitats and their environment and the preservation of public health and public safety.

⁵ For potential effects limited to Innu Assi.

⁶ Subject to the laws on public health.

neighbouring agreements, access to Innu Assi for public purposes, public safety, taxation, games of chance, video games and amusement devices.

Innu laws will respect the minimum standards provided for in the laws of Canada or Quebec in certain areas, especially with regard to public health and public safety.

The Constitution of Canada, including the Canadian Charter of Rights and Freedoms, the Charter of Human Rights and Freedoms of Quebec, and the laws of general application of Canada and Quebec, will continue to apply to the Innus, who may adopt an Innu Charter of Rights and Freedoms. The Treaty will prevail over the laws of general application, and the implementation acts will prevail over any other law in the event of inconsistency.

Administration of justice

The Treaty will allow the establishment of an Innu justice system in accordance with certain parameters, as well as measures for the adaptation of the legal systems of Canada and Quebec. The possibility of enlarging the jurisdiction of the Innu courts in civil, penal and criminal matters will be examined at the time of the first review of the Treaty.

The Innu tribunal of first instance will be in charge of the administration of Innu laws. It may act as a court of appeal of the decisions rendered by Innu administrative bodies. Its decisions will be enforceable in Quebec, and they may be appealed before the competent courts of Quebec. In the matter of civil and penal procedure, the laws of general application will prevail in case of inconsistency or conflict.

With regard to public safety, the Innu legislative assemblies may enact laws to constitute police corps who will be in charge of applying Innu Laws, the laws of Quebec and Canada within Innu Assi or outside this territory, according to the jurisdictions agreed upon in the Treaty.

Financial arrangements⁷

Canada will pay to the First Nations of Mamuitun a capital transfer amount of \$236 million and of \$23.5 million to the First Nation of Nutashkuan. These amounts will be adjusted to the date of the Treaty, from January 19, 2000.

As a compensation for the past developments, including those related to hydroelectric development on Nitassinan, Quebec will pay \$75 million for the benefit of the Innus of Betsiamites, \$750,000 for the benefit of the Innus of Essipit, \$14.25 million for the benefit of the Innus of Mashteuiatsh, and \$12.5 million for the benefit of the Innus of Nutashkuan.

As unassigned funds, Canada will pay \$14.5 million for the First Nations of Mamuitun and \$1.5 million for the First Nation of Nutashkuan. The parties will agree upon terms and conditions of repayment of loans contracted.

⁷ The payments provided in this chapter are not subject to any taxation or seizure.

The Treaty provides for a release by the Innus for the benefit of Quebec and Canada for any damage or infringement of rights which occurred prior to the signing of the Treaty. Any legal action still pending will be permanently withdrawn. Specific land claims filed prior to the signing of the Treaty will be dealt with in accordance with the Policy of Canada

Financing

The Parties agree that the financing of self-government is a joint responsibility. Their common objective is that the First Nations will resort less and less to Canada and Quebec financing. Financing agreements will be five years in duration and renewable, taking into account the source revenue capacity of the Innu Tshishe Utshimaut according to certain identified parameters, their needs in terms of real participation, and programs and services for residents of Innu Assi at levels reasonably similar to those in neighbouring communities in Quebec. The financing agreement will provide for, as the case may be, the financing of programs and services for Innus residing outside of Innu Assi.

The parties will agree upon a mechanism for the rendering of account which will enable relevant Ministers to answer for the use of funds to the Parliament of Canada and the National Assembly of Quebec.

The First Nations will be accountable to their citizens in accordance with the generally accepted financial accountability standards.

Taxation

The Innu legislative assemblies will have the power to enact laws in the matter of direct taxation. The Treaty or complementary agreements will provide for the tax treatment of the Innu tshishe utshimaut and their public institutions. The Parties may conclude complementary agreements on the sharing and collection of taxes.

The Treaty will determine the rules of transition between the tax regime provided for by the *Indian Act* and the introduction of an Innu tax regime.

Socio-economic development

This chapter sets out measures facilitating the participation of the Innus in activities of commercial fishing, in the development of two or three outfitting operations for each First Nation, in the development and exploitation of forest resources, and in the development of hydroelectric resources.

Measures facilitating the exploitation, development, and processing of marine species will be agreed upon prior to the signing of the Treaty.

Specific volumes of lumber will be made available to each community:

- 250,000 cubic metres for Mashteuiatsh;
- 250,000 cubic metres for Betsiamites;
- 100,000 cubic metres for Essipit;
- 250,000 cubic metres for Nutashkuan as part of an agreement with the neighbouring municipalities

A volume of energy of 30 MW will be set aside for the exclusive use of the three communities of Mamuitun, and the First Nation of Nutashkuan is given priority on the development of hydraulic power of 50MW and less located on the Innu Assi of Nutashkuan. The neighbouring municipalities may participate in this development should they so desire. First Nations may be partners in other hydroelectric projects.

The conditions and rules governing the exploitation of natural resources on Nitassinan will be the same for all users, but measures specific to the First Nations and their members may be agreed upon in the complementary agreements. The Parties wish to see the First Nations bring themselves up to the level of socio-economic development of neighbouring communities.

The Parties will set up a tripartite special purposes fund that may total up to \$35 million, to which public and private investors may contribute.

Measures to promote public and private partnership, employment training and development will be implemented.

A committee will be established to follow up the measures stipulated in this chapter.

Eligibility and enrolment

Prior to the signing of the Treaty, the Parties will specify the eligibility criteria for Innus to be Treaty beneficiaries. Enrolment under the Treaty will not confer or deny the rights of entering Canada, Canadian citizenship, the right to be registered as an Indian under the *Indian Act*, and will not impose any obligation on Canada or Quebec to grant rights or benefits.

An individual may only be enrolled under one land claim agreement or treaty.

An Enrolment Committee will be established by the First Nations. The Enrolment Committee will be comprised of one individual from each signatory First Nation. The three Parties will establish an Enrolment Appeal Board, and a process of control and judicial review will be possible on certain conditions.

Dispute resolution

In the event of dispute arising in the interpretation or application of the Treaty or a complementary agreement, and after a period of informal discussion and negotiation in good faith, this chapter provides for a multi-step process consisting of a joint review procedure, mediation, and arbitration.

A Party may not commence judicial proceedings until the other procedures have been exhausted.

Each Party will bear its costs, and other costs will be shared equally.

Implementation

The Treaty will provide for an implementation plan which will be considered a complementary agreement.

A Treaty Implementation Committee will be constituted. The Parties may explore the possibility of a global lump sum payment to cover all of the costs of implementing the Treaty, in lieu of the funding method provided for in this chapter.

Once the Agreement-in-principle is concluded, the Parties will conduct a preliminary study on the training needs of the Innus as regards the implementation of the Treaty.

Amendment and review of the Treaty

An amendment to the Treaty may be agreed upon between the Parties at any time. The Treaty will be reviewed on a periodic basis. Upon this review, the Parties will determine whether new circumstances might have significant effects on its provisions without calling into question the very foundations of the Treaty. Matters of capital transfer, compensation funds, and unassigned funds may not be reviewed. The Treaty will be subject to a first review in the seventh year following its coming into force. The second review will be conducted in the seventeenth year following its coming into force. Thereafter, the reviews will take place every twenty years.

In some circumstances it will be possible to review the issue of self-government.

Ratification

The Agreement-in-principle will be ratified by the signature of the Innu Chiefs, authorized for this purpose by a resolution of their Council, and by the signature of the ministers authorized for this purpose by the government of Quebec and the government of Canada.

The Treaty will be ratified by the Innus within the framework of a referendum held within each of the First Nations. The modalities of ratification will be provided for in the Treaty.

Transitional measures

Upon the signature of this agreement, the Parties will take transitional measures to prevent any infringement of the rights and interests relative to the various land allocations and socio-economic development measures agreed upon, and to prepare for the implementation of the Treaty

These transitional measures may deal with the prevention of land-transfers, the awarding of new rights or leases, the acquisitions required, or any other activities necessary to give effect to the Treaty.

Certain measures provided for in the chapter on genuine participation of the First Nations in the management of the lands, the environment and the natural resources may be applied.

A Party may terminate a transitional measure if it does not wish to pursue its implementation or in a period of two years from the signing of the Agreement-in-principle.