



History of the JBACE (1978-2012)

INTRODUCTION.....	1
1. Forest management.....	2
a) <i>Environmental impacts of forest management.....</i>	<i>2</i>
b) <i>The forestry regime under the “Paix des Braves”.....</i>	<i>3</i>
2. Land use and development in the Territory.....	3
a) <i>Land use planning.....</i>	<i>4</i>
b) <i>Transfer of powers to the regions.....</i>	<i>4</i>
c) <i>Access to the Territory.....</i>	<i>5</i>
d) <i>Protected areas.....</i>	<i>5</i>
3. Impact of hydroelectric projects.....	6
4. Mining activities.....	7
5. Drinking water and wastewater treatment.....	9
a) <i>Wastewater management.....</i>	<i>10</i>
6. Residual and hazardous materials management.....	11
a) <i>Hazardous materials.....</i>	<i>12</i>
7. Environmental and social protection regime.....	12
a) <i>Application of the regime to Category I lands.....</i>	<i>12</i>
b) <i>The evaluating and review committees.....</i>	<i>13</i>
c) <i>Modernization of the Section 22 regime.....</i>	<i>14</i>
d) <i>Improving without amending.....</i>	<i>15</i>
e) <i>The members’ role.....</i>	<i>15</i>
8. Human and financial resources.....	16
CONCLUSION.....	17

INTRODUCTION

The JBACE was established in 1978 to oversee the implementation of one of the first environmental and social protection regimes in North America. Construction of the La Grande hydroelectric complex and planning of the Nottaway-Broadback-Rupert (NBR) project were in full swing at the time, and the JBACE members were concerned about the quality of the follow-up studies and application of the environmental assessment process.

Beginning in the 1980s, the JBACE turned its attention more to forestry operations while continuing to address local issues such as drinking water quality. The Committee members put considerable effort into justifying the JBACE's role to the governments in order to obtain the funding needed to fully carry out the Committee's mandate.

1. Forest management

The James Bay and Northern Québec Agreement (JBNQA) stipulates that forest management plans for the James Bay Territory are to be submitted to the JBACE for its consideration and comments. As early as 1980, the JBACE stressed the importance of multiple forest use: commercial timber harvesting had to take Cree hunting, fishing and trapping activities into consideration. Whereas harvesting areas were expanding northward, no provision was made for consulting the Crees whose traditional pursuits would be disturbed.

a) Environmental impacts of forest management

Under the JBNQA, forest management plans (FMPs) submitted to the JBACE are exempt from impact assessment and review. Consequently, it is up to the JBACE to review the plans on the basis of environmental and social considerations. However, at the time, the plans barely addressed environmental and social impacts.

In 1986, the Ministère des Forêts entrusted the responsibility for preparing FMPs to the holders of timber supply and forest management agreements (TSFMAs). Four years later, the JBACE pointed out major flaws in this new system: TSFMA holders did not have sufficient knowledge of forest dynamics, wildlife habitats and Cree land use to enable adequate forest management planning. The JBACE asked for the governments' collaboration in creating a data bank that would shed light on these issues.

In 1996, the Cree Regional Authority (CRA) produced a series of synthesis maps showing the extent of forest disturbance: the surface area logged each year in James Bay had doubled since 1975. In addition, over 60% of the productive forest area of seven Cree traplines had been disturbed. The JBACE called for a moratorium on logging on those traplines. Despite the demonstrated extent of their negative impacts, forestry operations never underwent a genuine impact assessment.

In 1997, the JBACE developed a suite of criteria and indicators for sustainable forest management in the James Bay region. The goal was to enhance FMPs by incorporating the interests of Cree trappers and help the JBACE study FMPs for compliance with the environmental and social protection regime. In 1998, the Ministère des Ressources naturelles (MRN) retained 14 of the proposed indicators and instructed TSFMA holders to incorporate them into the FMPs they were preparing.

b) The forestry regime under the “Paix des Braves”

In 2002, the Québec government and the Crees signed the Agreement Concerning a New Relationship Between le Gouvernement du Québec and the Crees of Québec (ANRQC), the so-called “Paix des Braves” agreement, which sets out the terms and conditions of an adapted forestry regime for the James Bay Territory. The JBACE informed the signatory parties of its desire to monitor changes in forestry practices, coordinating its action with that of the Cree-Québec Forestry Board, a body established by the ANRQC.

In reviewing the FMPs for 2008-2013, the JBACE noted deficiencies in terms of information on Cree land use and Cree involvement in the plans’ preparation. It noted improvements in 2009, however, when it reviewed the amended FMPs submitted following adjustments to reflect the new allowable cut calculations. For example, several TSFMA holders had put measures in place to harmonize their forestry operations with Cree activities in the bush; in fact, the measures exceeded the requirements of the adapted forestry regime under the ANRQC.

In 2009, the JBACE submitted comments on the bill enacting the *Sustainable Forest Development Act*, in which it stressed the importance of involving the Crees in the process of transferring responsibility for forest management to the regions. Several of the bill’s provisions, including those pertaining to ecosystem-based management, necessitated amendments to the ANRQC adapted forestry regime before entering into force.

2. Land use and development in the Territory

Land use planning for a territory as big as James Bay poses particular challenges. In 1986, when the James Bay Municipality (JBM) proposed the development of a

zoning plan for Category III lands,¹ the JBACE recommended that the plan be developed jointly by the JBM and the Cree Regional Authority (CRA) owing to the existing Aboriginal rights on these lands.

a) Land use planning

In 1990, the Ministère de l'Énergie et des Ressources (MER) proposed a land use plan, i.e. a statement of government policy directions for the James Bay region. The JBACE underlined that timber supply and forest management agreements had already been approved, even though the *Forest Act* requires that they be consistent with any land use plan established for the area. The Committee also emphasized the need to consult regional organizations more. MER abandoned its land use plan.

In 2003, the Ministère des Ressources naturelles (MRN) proposed a new approach to public land use planning. During the consultation process, the JBACE stressed the importance of the Cree system of land ownership (traplines) and adequate documentation of land uses by the Crees and Jamesians.

b) Transfer of powers to the regions

In 2005, the government adopted a program to establish regional forestry commissions with the aim of strengthening regional powers in matters of land use planning. The following year, the James Bay regional conference of elected officers (CRÉBJ), which represents Jamésian (non-Aboriginal) communities, submitted a proposal for the regional forestry commission.

The JBACE wrote to the Ministère des Ressources naturelles et de la Faune (MRNF - formerly MER) to point out the shortcomings in the CRÉBJ's proposal as regards Cree involvement. The Committee invited the MRNF to bring its regional forestry commission program in line with the provisions of the environmental and social protection regime of the JBNQA. The shortcomings were rectified in 2012 with the signing of an agreement establishing the Eeyou Istchee James Bay Regional Government, which gives equal representation to Crees and Jamésians.

¹ The land regime established by the JBNQA includes three categories of land. Category I lands are set aside for the exclusive use of the Crees. On Category II lands, the Crees have the exclusive right of hunting, fishing and trapping. Category III lands are public lands, but the Crees have the exclusive right to trap certain species.

c) Access to the Territory

The network of roads left behind by forest management activities has provided easier access to Cree traplines. In 1981, a number of Cree trappers complained of vandalism to their camps. The JBACE recommended that the Crees be consulted during the planning of forest roads and that these roads be decommissioned as soon as logging operations have been completed.

In 1982, the MRN began granting leases to establish rough shelters on public land for sport hunting and fishing purposes. The Crees have become increasingly concerned over the years about the unstructured way of granting these leases, some of which are located on sites of interest to the Crees. In 2002, during the MRN consultations on the policy for allocating rough shelter leases, the JBACE decried the growing number of leases, their location and their negative impact on the wildlife harvesting rights guaranteed to Aboriginal people.

In 2004, the MRN adopted “Transitional Measures Applicable to Private Vacation Development in the Nord-du-Québec Region” to better govern the granting of leases on public land. The measures prohibit the granting of rough shelter leases in sensitive areas such as Cree Category I and II lands, designated protected areas, proposed protected areas, and areas of special interest for the Crees identified pursuant to the adapted forestry regime under the ANRQC.

d) Protected areas

The JBACE has always supported land conservation projects. However, it reminds the authorities that these projects must be submitted to the JBNQA impact assessment and review procedure. In 1986, the JBACE recommended that the proposed change in status of the Assinica wildlife sanctuary be reviewed by the Evaluating Committee.

In 1994, when the Québec government set aside four tracts of land in the James Bay region as proposed parks, the JBACE insisted that the projects undergo impact assessment and review, stressing the Crees’ wildlife harvesting rights. In 2002, the government announced five proposed protected areas on traplines belonging to the Crees of Waskaganish; further to a recommendation by the JBACE, the matter was submitted to the Evaluating Committee and an impact statement was prepared.

In 2005, the JBACE submitted a brief during the consultations on the proposed amendments to the *Parks Act* and the *Natural Heritage Conservation Act*. The

Committee offered its collaboration to develop a strategy for establishing protected areas in the James Bay region.

In 2011, the Québec government pledged to devote 50% of the area covered by the “Plan Nord,” including the James Bay region, for environmental protection and non-industrial activities. The JBACE recommended accelerating ecological planning in areas of interest so as to ensure that protected areas are not restricted to zones with no mining, energy or forestry potential.

3. Impact of hydroelectric projects

When it began operating in 1978, the JBACE strove to ensure that planned hydroelectric projects underwent impact assessment and review. To that end, it recommended that the Evaluating Committee (COMEV) be established as quickly as possible so that it could review the preliminary design study for the NBR project.²

Although the La Grande hydroelectric complex was exempt from impact assessment and review under the JBNQA, the JBACE encouraged the Société d'énergie de la Baie James (SEBJ)³ to establish a rigorous environmental monitoring program. Owing to the importance of fish to the Cree diet and culture, the Committee recommended in 1979 that measures be taken to minimize mercury concentrations in fish caused by the creation of reservoirs. In 1983, the JBACE advised the Ministère de l'Environnement du Québec to adopt an environmental monitoring policy setting environmental standards applicable to the La Grande complex.

In 1985, following the drowning of approximately 10,000 caribou in the Caniapiscau River, whose waters had been partially diverted to the La Grande reservoir, the JBACE called on the Québec government to conduct an interdisciplinary investigation into the incident. Although the government did not act on the Committee's request, a study was conducted by the Secrétariat aux affaires autochtones (then SAGMAI). The JBACE responded to the study report by recommending that Cree trappers be consulted regarding management and operation of the La Grande complex.

² Hydroelectric project involving the Nottaway, Broadback and Rupert rivers: this project was put on ice in 1985 then subsequently abandoned under the ANRQC (2002).

³ Hydro-Québec subsidiary.

Revival of the Great Whale hydroelectric project in 1990 gave the parties incentive to enter into an agreement on harmonization of the two applicable environmental assessment procedures, i.e. the provincial procedure under Section 22 of the JBNQA and the Federal Environmental Assessment and Review Process (FEARP). The JBACE reminded the governments that the JBNQA provides for the combining of the two review bodies for projects that fall within both federal and Québec jurisdiction. The JBACE offered its collaboration for follow-up and public information for projects of this scale.

Also in 1990, the Provincial Administrator recommended dividing the Great Whale project into four components: the main hydroelectric complex, road infrastructures and two power transmission lines. In the JBACE's opinion, dividing the project into components would make it impossible to assess the project's cumulative impacts.

In 1992, COMEV issued draft directives for the environmental impact statement for the Great Whale project. In its comments on the directives, the JBACE stressed the importance of describing each design option and the direct link between their environmental and social impacts for the Crees.

In the meantime, the government launched public hearings on Québec's energy policy. The JBACE submitted a brief, in which it underlined the adverse effects that advancing the construction schedule for large-scale projects has on the quality of environmental assessment. The Committee proposed that a policy on river diversion and integrated watershed management be developed.

When construction of Eastmain 1 began in 2002, the JBACE called on the Ministère de l'Environnement to allocate sufficient resources to environmental monitoring and follow-up. Soon after, the Committee met with SEBJ representatives to discuss the matter, and the latter presented the preliminary design study for the Eastmain 1-A powerhouse/Rupert diversion project. The consultations on this major project lasted from 2003 to 2006. Afterwards, the project-related documents were transferred from the Public Information Office to the JBACE secretariat.

4. Mining activities

The James Bay Territory harbours vast mineral deposits. Mining companies have been exploring these deposits, especially gold, copper and kimberlite, for close to

100 years, sometimes at a feverish pace: in 1980-1981 alone, COMEV reviewed six mine projects.

Metal extraction processes generate waste material known as “tailings,” which are disposed of in ponds, or impoundments. Fearing aquatic contamination, in 1990 the JBACE called for environmental assessment of tailings ponds and the development of an effluent monitoring program. In addition, the Committee encouraged the Ministère de l’Environnement to clean up industrial sites in the Quévillon mine area to prevent the release and flow of leachate to the Bell and Nottaway rivers. It also encouraged the Department to continue developing cleanup techniques for contaminated mine sites.

In 1999, the Department consulted the JBACE on a proposed mining directive (Directive 019) setting the environmental standards for mine effluent. The JBACE expressed its preference for a regulation that would apply to all mine operators, rather than a directive that applies to new projects only. The Committee also stressed the need to align the directive with the federal effluent management system.

Beginning in 2002, the JBACE learned of the Crees’ concerns about abandoned mine sites on the shores of Chibougamau and Doré lakes, both traditional fishing sites for the Crees of Oujé-Bougoumou. The JBACE invited the authors of two studies to present their findings in this regard. The researchers concluded that there was no direct link between mining operations and human health problems. However, heavy metal and organochlorine concentrations in freshwater sediment and fish exceeded the allowable limits, thereby warranting rigorous monitoring. One of the authors agreed with the JBACE that fish and wild meat consumption guidelines needed to be adapted to Aboriginal communities that rely on these foods.

In 2004, the JBACE invited Environment Canada to a meeting to explain its Environmental Effects Monitoring (EEM) Program for mining operations. The program requires that monitoring studies be conducted to assess the effects of effluent discharges on fish and benthic fauna. All five mines in the James Bay region filed an EEM study in 2006. Three years later, an Environment Canada representative gave the JBACE a presentation on the results of the EEM studies.

In 2008, a break in the tailings dam at the old Opemiska mine spilled a significant amount of tailings into the Waswanipi River watershed. In the ensuing years, the JBACE called on the Ministère des Ressources naturelles to ensure the

Waswanipi Crees were directly informed of the spill's impacts on fish habitat. In addition, the JBACE recommended that the MRN ensure Cree participation in the monitoring studies and remediation work carried out in the spill area.

In 2009 and 2010, the JBACE submitted comments on the bills (79 and 14) to amend the *Mining Act*. The Committee made a number of recommendations, including improving the regulatory framework for mineral exploration and creating a public registry of mining activities in James Bay. The registry would contain information on mines, exploration projects, inspection and monitoring reports, and remediation plans.

Since mineral exploration is not on the list of development projects automatically subject to the impact assessment and review procedure, the JBACE is looking at ways of taking the environmental and social impacts of exploration projects into consideration in the procedure.

5. Drinking water and wastewater treatment

The JBNQA confers powers on Cree First Nations for the purposes of natural resource management and environmental protection on Category I lands. The *Cree-Naskapi (of Québec) Act*, passed in 1984, stipulates the powers in relation to health and hygiene on Category IA lands.⁴ By virtue of the Act, responsibility for drinking water and wastewater management was transferred to the Cree First Nations.

A gastroenteritis epidemic in 1980 raised questions as to the quality of drinking water in Cree communities. The JBACE noted that engineering firms had supervised the installation of treatment systems in several communities, but failed to ensure adequate monitoring of the facilities' maintenance.

In 1982, a JBACE subcommittee travelled to Waskaganish to examine the framework for local infrastructure projects and identify any flaws in the assessment and review procedure. In the JBACE's opinion, the procedure needed to cover construction plans and specifications.

Two years later, the JBACE found itself reminding local officials that development projects on Category I lands are subject to impact assessment and

⁴ Category IA lands are set aside for the Crees and fall under federal jurisdiction.

review under the JBNQA and must undergo the procedure before being approved. The Ministère de l'Environnement du Québec (MENV), in cooperation with the Cree Regional Authority, conducted a quality inspection of existing infrastructures. At the end of this exercise, MENV recommended that drinking water chlorination systems be upgraded; the JBACE endorsed this recommendation.

In 1984, following the adoption of the Québec *Drinking Water Regulation*, the JBACE asked the Québec government to make good on its promise regarding bacteriological and physico-chemical analysis of drinking water in Cree communities. The Committee also encouraged the Cree communities to pass local drinking water and wastewater by-laws while complying with existing standards. The Council of the Cree Nation of Eastmain passed a drinking water by-law for its community in 2002.

On more than one occasion, the JBACE tried to serve as intermediary between the Cree communities and the governments. In 1993, following contamination of Chisasibi's water table, the JBACE encouraged Indian and Northern Affairs Canada to provide technical assistance and data on the community's drinking water system. In 2001, during the preparation of Québec's *Regulation respecting the quality of drinking water*, the JBACE asked the Ministère de l'Environnement du Québec to send information on the state of the Cree communities' drinking water systems with a view to upgrading them.

In 2000, the Québec government announced the holding of public hearings on water management. The JBACE and the Bureau d'audiences publiques sur l'environnement (BAPE) jointly chaired the consultation sessions in the James Bay Territory. After meeting with four Cree communities, the JBACE helped revise the section of the BAPE report dealing with the James Bay region.

During this process, the JBACE reiterated the need to adapt fish consumption guidelines to the realities of the James Bay region. The Committee suggested developing a system for collecting aquatic data to ensure more effective measurement of the impacts of hydroelectric, forestry and mining projects.

a) Wastewater management

In 1984, the Québec government tabled a draft wastewater treatment policy for Northern Québec: the JBACE proposed amendments to facilitate the policy's application in the James Bay region. The Committee also facilitated the signing of

an agreement between the Cree First Nation of Whapmagoostui (Great Whale), the Cree Housing Corporation and the Ministère de l'Environnement on wastewater from a residential construction project. Until the sewer systems in the Cree and Inuit areas were integrated, wastewater from the new residential district was to undergo minimum treatment before being released into the Inuit sewer system, from where it would flow to Hudson Bay.

6. Residual and hazardous materials management

In 1982, the JBACE studied the proposed amendments to the *Regulation respecting solid waste*, which provided for special conditions north of the 55th parallel, but none in the James Bay Territory. To facilitate application of the amended regulation, the JBACE succeeded in getting the rules relating to leachates and analysis techniques eased.

In 1996, the Committee participated in the BAPE's public hearings on waste management in Québec. The JBACE recommended that waste management be a regional responsibility and that incineration and composting pilot projects be carried out. That is why the JBACE supported the Review Committee's recommendation not to approve a proposed sanitary landfill site in Chapais because the proponent planned for the site to receive waste from outside the James Bay Territory. The JBACE recommended a moratorium on the practice of receiving waste from other regions.

In 2000, the Québec government overhauled the *Regulation respecting solid waste* and renamed it the *Regulation respecting the elimination of residual materials*. The JBACE submitted a brief on the draft regulation to explain the waste disposal methods used in the James Bay Territory: a number of provisions, including the requirement to dispose of waste in a sanitary landfill if one is located less than 100 km away, would have been difficult to apply in Cree communities.

In 2005, the government adopted the regulation, which was finally called the *Regulation respecting the landfilling and incineration of residual materials*. The regulation prohibits burning in trench landfills which, in the JBACE's opinion, creates extra costs for Cree communities insofar as government recovery and recycling programs do not apply to the James Bay region. From 2006 to 2010, the JBACE worked with the residual materials branch of the Ministère du Développement durable, de l'Environnement et des Parcs to examine scenarios for extending recovery programs to James Bay.

a) Hazardous materials

The Québec government struck a committee in 1990 to study the issue of hazardous waste. During the consultations, the JBACE called for better coordination between the regional offices of the Ministère de l'Environnement and the bodies established by Section 22 of the JBNQA. The Committee also asked that the government's policy regarding used oil management be reviewed in relation to risk assessment, health benefits and constraints in northern communities.

During the 1996 consultations on Québec's *Soil Protection and Contaminated Sites Rehabilitation Policy*, the JBACE identified 90 contaminated sites in the James Bay Territory, mainly caused by hydrocarbon spills. In a brief submitted to the Ministère de l'Environnement et de la Faune, the JBACE underscored the importance of adopting adapted guidelines for cleanup projects in the Territory. Owing to the Crees' wildlife harvesting activities, the Committee also recommended that the decontamination levels for sites in the Territory be such that the Crees could safely harvest wildlife again post-cleanup.

7. Environmental and social protection regime

In keeping with its mandate to oversee the administration of the environmental and social protection regime, the JBACE must ensure the conditions required for the various stakeholders to do their work.

a) Application of the regime to Category I lands

The JBNQA provides for a local environment administrator in each of the Cree communities. This person approves development projects on Category I lands based on the recommendations of the review body. To fulfil this responsibility, the local environment administrators require adequate technical and financial resources. That is why the JBACE supported a request from the Crees to that effect in 1979. The following year, the Committee applauded the creation of a volunteer training program for local environment administrators. In 1983, participants in the program received remuneration, paid by Environment Canada and the Ministère de l'Environnement du Québec. To further facilitate recruitment, the JBACE recommended making the position of local environment administrator a full-time position.

While this was going on, development projects on Category I lands, such as wastewater treatment systems, were not submitted to impact assessment and review. In 1984, the JBACE was concerned about problems in the systems' operation and the attendant impact on public health.

In 2004, the JBACE formed a subcommittee to examine shortcomings in the federal review process as applied in Cree communities (Category I lands). In 2006, the JBACE made recommendations aimed at enhancing environmental management within the communities; among other things, it called on the CRA and governments to systematically provide technical support to local environment managers.

The role of local environment administrators was amended under the 2008 Agreement Concerning a New Relationship Between the Government of Canada and the Cree of Eeyou Istchee. Pursuant to this agreement, the administrator responsible for the protection of the environment is designated by the Cree Regional Authority. The administrator makes the decision to authorize or not projects on Category I lands, based on the recommendations of the review body.

b) The evaluating and review committees

The Evaluating Committee (COMEV), the Review Committee (COMEX) and the federal Review Panel (COFEX-South) play an important role in the Section 22 regime. COMEV is responsible for making a recommendation to the administrator as to whether or not a project not on the lists of developments automatically subject to and exempt from impact assessment and review should undergo the procedure. COMEV also issues directives for the impact statement to be prepared for projects subject to the procedure. COMEX and COFEX-South, depending on whether the project falls within provincial or federal jurisdiction respectively, studies the impact statement and recommends whether the project should be authorized or not.

The JBACE attempted to strengthen ties with these committees to facilitate information sharing. In 1984, during a meeting with the JBACE, the respective chairs of the three evaluating and review bodies pledged to submit quarterly activity reports.

Operation of COFEX-South proved problematic owing to its ad hoc status. In 1979, the JBACE stressed the importance of making the Review Panel a standing committee. One of the problems encountered was the Review Panel's occasional failure to apply the federal assessment and review process, as required by the

JBNQA: in 1980-1981, the Federal Administrator referred the review of the impact statement for the Chibougamau airport project to his Québec counterpart, even though air transportation falls under federal jurisdiction. At the end of the process, COMEX recommended that the project be authorized, despite the opposition of its members appointed by the Cree Regional Authority. Similarly, in 1996 COFEX-South refused to assess the impacts of a proposed sawmill on Category IA lands after its federal government members claimed that forest management is a matter of provincial jurisdiction.⁵

c) Modernization of the Section 22 regime

The JBACE is responsible for making sure the provisions of Section 22 of the JBNQA and its schedules are up to date.⁶ In 1984, COMEX proposed changes to the lists of development projects automatically subject to and exempt from impact assessment and review (schedules 1 and 2). Before submitting the proposed changes to the JBNQA signatories concerned, the JBACE requested amendments with regard to forest management activities and infrastructures.

Several attempts to update Section 22 were made in the 1990s. In 1994, Makivik Corporation, the Naskapi Landholding Corporation and the CRA jointly proposed that large-scale caribou hunting projects be submitted to impact assessment and review: due to a lack of government support, nothing became of the proposal.

In 1996, the JBACE solicited the regime stakeholders' concerns and views with regard to the review of Section 22. This exercise revealed the unworkable nature of the examination of proposed laws and regulations: this process is supposed to ensure that the provisions of laws and regulations are consistent with those of Section 22. In the absence of a legislative framework, it was entirely up to the evaluating and review committees to ensure development projects did not conflict with the Cree environment and society. Due to a lack of financial support, this process was limited to making observations.

In 2006, the JBACE revived the project by first hiring an intern to collect and compile useful data for the review of schedules 1 and 2 of Section 22. A consultant was hired to make proposals in this regard. During a workshop held

⁵ The federal process was not applied to the Great Whale project either (see section 3).

⁶ The JBNQA provides for the review of schedules 1 and 2 of Section 22 every five years. A single amendment providing for the taking into account of the Agreement Concerning a New Relationship Between Québec and the Crees has been approved to date.

in April 2007, members of the JBACE, COMEV, COMEX and COFEX-South reached a consensus with regard to the vast majority of project categories, i.e. those that should be subject to and those that should be exempt from impact assessment and review. In 2008, the JBACE sent its recommendations to the signatory parties to Section 22. Discussions on the implementation of the JBACE's recommendations are ongoing.

d) Improving without amending

The JBACE supports any initiative that will improve the functioning of the regime without having to amend Section 22. In 1982, COMEV proposed that recommendations to exempt projects from impact assessment and review include conditions so that proponents would not have to prepare an impact statement—a costly process that serves the sole purpose of ensuring compliance with a regulation, directive or recommendation. In return, proponents would have to incorporate the conditions into their project description.

In 1986, the CRA recommended establishing a system of environmental permits for Category IA lands, similar to the one provided for in the *Environment Quality Act*, to make it easier for local environment administrators to approve projects that will not have a significant impact. The JBACE endorsed the idea, stressing the importance of monitoring and follow-up once a permit has been granted.

e) The members' role

At times, the role of JBACE members can be ambiguous. For example, as representatives of their respective governments, the members for Québec and Canada have sometimes had trouble speaking for themselves on issues. In 1990, however, the chairman, who had been appointed by the CRA, underlined the fact that the Québec and federal government representatives were serving in an expert capacity and were no longer bound to uphold their governments' public positions on matters.

Two years later, the chairman pointed out a pernicious effect of the members' independence, namely, that the members for Québec and Canada no longer had access to their government's information and resources relating to the issues dealt with by the JBACE. Consequently, they no longer could obtain information upstream or influence the formulation of laws and regulations that would affect the environment or social milieu in the James Bay Territory.

In fact, more and more, the government representatives were being appointed from outside the public service. The Government of Canada tended to hire consultants, while the Québec members volunteered to sit on the Committee. In 1997, with all of the Québec members being volunteers, the JBACE asked that they be remunerated: the inequality of means among the parties hindered the Committee as a whole.

8. Human and financial resources

The JBNQA provides for a secretariat for the JBACE consisting of not more than five employees. The Committee has generally benefited from the services of a secretariat officer, an executive secretary and, occasionally, a technical advisor.⁷ Under a secondment agreement with the Ministère de l'Environnement du Québec, these employees normally divided their time between the JBACE, COMEV and COMEX.

The JBACE has always maintained that the personnel provided by the Ministère de l'Environnement is not sufficient to enable the Committee to fulfil its mandate under the JBNQA. In order to study forest management plans and other issues properly, the Committee needed to hire a full-time analyst. Research was conducted on a sporadic basis due to budgetary constraints. Up until 2008, when an analyst was hired, it fell to the members themselves to examine issues. The Committee's operation was affected by the fact that the members' responsibilities on the Committee were in addition to those of their regular jobs.

The fact that the secretariat was located in the offices of the Ministère de l'Environnement du Québec (MENV) was also problematic. Even though the JBACE had the status of an advisory committee, i.e. operating at arm's length from the governments, its secretariat was still under the purview of MENV's environmental assessment branch. In 1995, the JBACE began taking steps to group the secretariats of the JBNQA bodies under the same roof.

In 1998, with the Ministère de l'Environnement threatening to move the secretariat to its Northern Québec regional office, the JBACE attempted to set up an independent secretariat for itself, COMEV and the Hunting, Fishing and Trapping Coordinating Committee (HFTCC).⁸ While the Department supported

⁷ The JBACE had no employees from 1987 to 1989.

⁸ To ensure coordinated action on wildlife, environmental and social issues, a member of the HFTCC is an ex officio member of the JBACE.

the principle of grouping the secretariats, it failed to dedicate the necessary funding to the project. It wasn't until 2001, following meetings with the federal and provincial administrators, that the JBACE received adequate funding for the relocation and operations of its secretariat. The JBACE secretariat moved into the same offices as the HFTCC secretariat in Montréal in 2002.

CONCLUSION

The JBACE members have discussed, examined and made recommendations on a host of issues to help protect the environment and the well-being of the people living in the James Bay Territory. Over the years, the Committee has taken a position on diverse issues ranging from acid rain to the protection of archaeological heritage and Aboriginal traditional knowledge as a form of intellectual property.

While the JBACE's actions have advanced issues or led to productive debate, the Committee is still far from fulfilling its mandate. The outcome of its examination of laws or regulations that could affect the James Bay environment or communities depends on the collaboration received from the governments. In addition, the JBACE's ability to fulfil its role in overseeing the impact assessment and review procedure demands that the administrators and the evaluating and review committees make information available.

These are sizable challenges. The architects of the James Bay and Northern Québec Agreement demonstrated remarkable vision in establishing a special environmental and social protection regime for the Cree people. It is up to the JBACE, in conjunction with the other players involved, to give concrete expression to this vision and bring it in line with today's realities.