“Strengthening Partnership between States and indigenous peoples: treaties, agreements and other constructive arrangements”

Geneva
16-17 July 2012

Organized by the Office of the United Nations High Commissioner for Human Rights

Presentation concerning the James Bay and Northern Quebec Agreement and the Paix-des-Braves Agreement

Me Marie-Ève Lachapelle Bordeleau

-------

The views expressed in this paper do not necessarily reflect those of the OHCHR.
I am a member of the Cree Nation of Eeyou Istchee, member of the Waswanipi Band, beneficiary of the JBNQA, Indian Status (according to the Canadian Indian Act), lawyer member of the Quebec Bar and I am currently in charge of the Justice file for the Quebec Native Women Association. The following is a presentation concerning the James Bay and Northern Quebec Agreement executed between Canada, Quebec and the Cree Nation of Eeyou Istchee and also concerning the Paix-des-Braves Agreement.

**JAMES BAY AND NORTHERN QUEBEC AGREEMENT (JBNQA)**

Prior to the 1970’s there was no pre-existing treaty covering the James Bay Territory in the Province of Quebec.

During the 1960’s the Province of Quebec’s government began potential hydroelectric resources in the Northern part of the Province. Considering the potential, in 1971 the James Bay Development Corporation was created by the Quebec Government in order to further develop the following industries in the North: mining, forestry and hydroelectricity. It is also important to specify that in 1944, Quebec nationalized electricity and Hydro-Quebec, which is a public owned company, was created. The First Nations people were not consulted prior. An Injunction was filed to stop those projects and in November 1973 the Quebec Superior Court stated that hydroelectric development should be stopped until Quebec negotiated an agreement with the First Nations people occupying the territory. However, this judgement was overruled by the Quebec Court of Appeal, so construction continued but the obligation of negotiation was not overturned.

On November 15, 1974 an Agreement *in principle* was signed between the governments of Canada, Quebec, Hydro-Quebec and the Grand Council of the Crees and the Northern Quebec Inuit Association. Finally on November 11, 1975, the *James Bay and Northern Quebec Agreement* was signed. On January 31, 1978, the Naskapi (a First Nation impacted by the JBNQA) signed a parallel agreement, the *Northeastern Quebec Agreement* and then joined the JBNQA.

The JBNQA is the first modern land claim (or Treaty) agreement in Canada. The JBNQA covers a number of different subjects and establishes many provisions in the following areas: Lands, Environmental and Social Protections, Economic development and financial compensation, Education, Local government and Health and Social services. More specifically, the following summarize the Cree traditional land division as a result of the JBNQA:

- **Category I:** Lands reserved exclusively for the use of the Cree Nation;
- **Category II:** Lands owned by the Crown in right of Quebec, but in which hunting, fishing and trapping rights are reserved for JBNQA beneficiaries and over which forestry, mining and tourism development authority is shared;
- **Category III:** Lands in which some specific hunting and harvesting rights are reserved for JBNQA beneficiaries and all other rights are shared.

By agreeing on the JBNQA, the Cree Nation hoped that it would allow for them to build their communities, to pursue with their traditional way of life and also to participate in natural resources development on their traditional territory.

**PAIX-DES-BRAVES**

After twenty-five (25) years of the Agreement, the Cree Nation has maintained their traditional way of life. However, economically speaking we were still under developed and we were excluded from the natural resources development of our territory. As a results of not
having successfully negotiated the implementation of the JBNQA with both Federal and provincial government we have battled in courts in order to have our treaty rights respected and implemented. More than 25 years after, in 2002, we had filed more than 24 law suits against the governments in order to have our Treaty rights respected.

In order for Quebec and for us the Crees to get out of this impasse, something had to be done. In the summer of 2001, the Grand Chief Dr. Ted Moses and the Premier Bernard Landry got a team together in order to find an alternative solution to get out of this situation. The group negotiated the Agreement in principle to the Paix-des-Braves Agreement. The following are the main principles of this new Agreement: Nation to Nation, no extinguishment of rights, Implementation of the philosophy of the JBNQA and the use of the Cree expertise in the negotiation and in the implementation of Agreements. Finally, for the drafting of the final Agreement, a wider team was created with representatives of all parties. With this Agreement, varying economic development opportunities were created for the Cree Nation by the direct results of the unique characteristics of negotiations which included local representation, traditional knowledge (knowledge of trappers were used).

On February 7th, 2012 the Nadoshtin Agreement, the Boumhounan Agreement, the Mercury Agreement and the Apatisiwiwin Agreement were signed.

The Nadoshtin Agreement:

Executed between the Grand Council of the Crees of Eeyou Istchee (GCC(EI)/CRA, the Cree Nation of Mistissini, Nemaska, Eastmain and Waskaganish and Hydro-Québec (HQ/SEBJ). The main objective of this Agreement is to provide for the construction, operation and maintenance of the Eastmain 1 Project, while addressing Cree interests and providing benefits as defined in the Agreement.

Mercury Agreement:

As a result of the construction of the La Grande Complex there were great concerns related to methyl mercury contamination resulting from the decomposition of vegetation in the reservoirs.

Aptisiiwin Agreement:

This Agreement was developed in order to obtain the goal of training and employing 150 Crees (permanent jobs).

Opimiscow Agreement:

The Opimiscow Agreement was executed between the GCC(EI)/CRA, the Cree Nation of Chisasibi, the Cree Nation of Wemindji and HQ/SEBJ in 1994. This Agreement is only concerning the construction of the Laforge project. The Opimiscow Indoho Fund was used for remedial measures for the Cree users directly impacted by the LA 1 and LA 2 projects.

Boumhounan Agreement:

The Boumhounan Agreement was executed also in February 2002 between the GCC(EI)/CRA, the Cree Nation of Mistissini, the Cree Nation of Eastmain, the Cree Nation of Nemaska and the Cree Nation of Waskaganish. This Agreement provides specifically, that HQ will be responsible of all costs for the remedial measures. It is in this
Agreement that provisions concerning remedial measures works, environmental guarantees and undertakings are developed.

Agreement Concerning a New Relationship between Hydro-Québec SEBJ and the Crees of Eeyou Istchee:

As mentioned earlier, there were obligations provided in the JBNQA that were never fulfilled by HQ/SEBJ which resulted in several law suits initiated by the Crees and which are known as of the: “Matthew Coon Come Lawsuits”. In March 2004, this above-mentioned New Relationship Agreement was executed.

We can read the third Whereas as followed:

*WHEREAS the parties place behind them the previous disputes which have tarnished their relationships, and have rather decided to pursue a forward looking relationship based on mutual respect, good faith, reconciliation, partnership, meaningful participation and mutually beneficial economic and social arrangements*

**IMPLEMENTATION OF THE AGREEMENTS**

For the management of the funds and benefits provided by the above-mentioned Agreements, many entities were created (Eeyou Namess, Nadoshtin, Apatisiiwin, etc.) The establishment of so many entities led to confusion at the community level. However, in 2003 a simplified proposal for the management of the different funds and benefits was adopted. As a result, the Niskamoon Corporation was created in 2004.

The following is the mandate of the Niskamoon Corporation:

To provide for an efficient framework for cooperation between the Crees and Hydro-Québec with respect to the implementation of the following Cree and Hydro-Québec Agreements: Agreement Concerning a New Relationship between Hydro-Québec/SEBJ and the Crees of Eeyou Istchee, the Nadoshtin Agreement, the Mercury Agreement (2001), the Cree Employment Agreement, the Opimiscow Agreement and the Boumhounan Agreement.

The Niskamoon Corporation was also created in order to: provide a more efficient framework for cooperation between the Crees and Hydro-Québec in respect to the implementation of the Cree and Hydro-Québec Agreements, to facilitate and simplify access to the benefits, measures, resources and programs under the Agreements, to provide a more efficient framework for cooperation between the Crees and H-Q in respect to the implementation of the Agreements. The Niskamoon Corporation' Board of Directors is composed of eight Board members which 5 are appointed by the Cree part and three appointed by H-Q. The Head Office of the Corporation shall be located on Category 1 A Lands and is currently located in the community of Nemaska.

For more information concerning Niskamoon Corporation please refer to the following website: [http://www.niskamoon.org/](http://www.niskamoon.org/)

Overall, the Paix-des-Braves is a commitment from the leadership to the future Cree generations and it is through unity on the Cree part that the execution of these Agreements were possible.