

INFORMATION DOCUMENT

Introduction of the *Bill to amend the Forest Act*
and Sitzings of the General Parliamentary Standing Committee 2000



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Introduction of the *Bill to amend the Forest Act
and other legislative provisions* and *Sittings*
of the General Parliamentary Standing Committee 2000



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HIGHLIGHTS

The forests must be managed and developed in the best interests of the public – in other words, according to the values and aspirations of the population. This requires a participatory, transparent and sustainable management system, and to implement this system, certain amendments will have to be made to the *Forest Act*, the *Act respecting the ministère des Ressources naturelles* and other legislative provisions.

1 THE FOREST ACT

The granting of rights over resources

It is proposed:

- To add a new method of allocating wood in the public forests, to be known as the forest management agreement. The new agreement will allow companies that do not hold a wood processing plant operating permit to harvest wood from the public forests, in areas hitherto reserved for the holders of timber supply and forest management agreements, and sell it to interested plants. A forest management agreement will be issued only if the allowable annual cut is sufficient and if the Minister believes it would be in the public interest. The Minister will set the conditions to be met by companies wishing to obtain such an agreement.



Holders of forest management agreements will have the same obligations as holders of a timber supply and forest management agreements, first because their respective agreements will cover the same areas, and second because they will all be required to integrate their activities and do their best to achieve the management objectives set by the Minister.

- To add the volumes of wood allocated to the holders of forest management agreements and those sold by the holders of forest management contracts to the list of supply sources considered when calculating the residual volume of wood that the holders of timber supply and forest management agreements are authorized to harvest from the public forests in order to supply their plants.
- To stipulate that the period during which the holder of a timber supply and forest management agreement may add unharvested volumes of wood from previous years to the volume he is authorized to harvest in

a given year will be limited to the period of validity of the current general plan, i.e. five years. At the end of this period, the unharvested volumes will be taken into account when reassessing the allowable annual cut, and if it is decided to increase the allowable annual cut, the Minister may allocate the additional volume to the person of his choice or reserve it for the promotion of an industrial project or another forest use.

- To relax the rules that allow the Minister to authorize a company holding a wood processing plant operating permit to harvest, in a given year, the volumes of wood that a holder of a timber supply and forest management contract did not harvest, even though it was authorized to do so.
- To allow the Minister to issue annual management permits for the harvesting of bushes and tall shrubs or their branches in order to supply a processing mill, on the conditions he believes are necessary to preserve resources and maintain activities and harmonious relations between the holders of different rights. The permits may be renewed if the holders have fulfilled their obligations and complied with the relevant provisions of the *Forest Act* and related regulations, although their prescriptions may be revised at that time.
- To authorize the Minister, on the conditions he determines, to issue forest management permits for the harvesting of wood to make room for agricultural developments (blueberry farms, etc.).
- To allow the Minister to authorize the holder of a sugar bush management permit for maple syrup production purposes to carry out forest management activities in its sugar bush with a view to supplying processing plants. Certain conditions will apply, including the preparation of a forest management plan, for example.
- To allow an agreement that covers two or more management units to be cancelled in respect of one of those units where serious violations of the law are observed. This provision has become necessary because certain violations will in future be ascribed to all the agreement holders in a given management unit, and the holders may not be the same in all the units.

Setting management objectives for the public forests

It is proposed:

- To adopt a policy for the organization of consultations that will allow the Minister of Natural Resources to stipulate his orientations for the granting of rights as well as for the protection and development of forests in the forest management units.

- To stipulate that the Minister of Natural Resources will be responsible for calculating allowable annual cuts according to the various species that may be allocated, for setting target yields for every forest area in a given management unit, and, after consulting the ministers concerned and within the bounds of the powers entrusted to him, for establishing the sustained yield, forest protection and forest development objectives to be achieved in each unit.
- To require agreement and contract holders, when preparing their general management plans, to take into account the allowable annual cuts, forest yield, forest protection and forest development objectives established by the Minister, and to carry out the silvicultural treatments and other management work required to achieve those yields and objectives.
- To establish the reasons and circumstances that may cause the Minister to review the boundaries of a management unit or the forest areas used to calculate the allowable annual cut, in particular where the use of an area is changed, and to provide that, if such changes lead to a reduction in existing allocations, equivalent volumes will be allocated to the holders in question in another management unit, if the allowable annual cut so permits, or that fair compensation will be paid to agreement or contract holders who have carried out forest management activities in areas withdrawn from the allowable annual cut calculation process but have not received a stumpage dues credit equal to the value of the work done.

Improving the planning of forest management activities

It is proposed:

- To allow the Minister of Natural Resources to divide the forests territory into management units (the division will be completed no later than September 1, 2002) and to require agreement and contract holders to take the new divisions into account when preparing their general forest management plans for submission on April 1, 2004.
- To provide that the newly defined management unit boundaries cannot subsequently be modified unless special circumstances, such as a reduction in the areas used for forest production, mean that the division no longer allows the forests to be managed in the best possible way.
- To synchronize the dates on which agreements are extended and revised with the dates on which the general forest management plans are updated, and to adopt a single schedule throughout Québec for the submission of the various forest management plans by agreement holders. These provisions are essential, first to ensure that agreement holders prepare joint plans, and second, to obtain an overview of the changing situation in forest management.

- To stipulate that the ministère des Ressources naturelles will supervise the preparation of the forest management plans to be submitted by agreement and contract holders.
- To combine the general and five-year forest management plans to form a single general forest management plan, and to stipulate its content, including the strategies adopted for developing the forest management unit, the five-year program of activities, the main infrastructures planned for the medium term, the location of cutting areas, identification of zones of particular interest and requiring special management approaches, and the mechanism devised for settling any conflicts that may arise between agreement holders when preparing and implementing their annual management plans.
- To stipulate the content of the annual management plan, including a detailed list of proposed forest management activities, the distribution of both the activities and the related stumpage dues credits among the agreement holders, the end use of the wood harvested, etc.
- To require that the agreement holders in a given management unit must prepare and submit joint forest management plans, joint assessments of the forest management work carried out and joint forest management reports.
- To stipulate that the agreement holders in a given management unit are jointly responsible for implementing the forest management strategies described in their joint general plan, even if they divide the work proposed in the annual plan among themselves.
- To provide for the participation of the following parties in the preparation of the general forest management plans required from agreement and contract holders, and to stipulate the rules applicable to that participation:
 - regional county municipalities;
 - Native communities, represented by their respective band councils;
 - individuals and organizations that, under the *Act respecting the conservation and development of wildlife*, have entered into an agreement for the management of a wildlife management area, organize activities or offer services in a wildlife preserve, or hold an outfitter's permit;
 - individuals and organizations that, under the *Forest Act*, hold a sugar bush management permit for maple syrup production purposes.

The participation of these various parties will be subject to certain conditions, which the parties will establish jointly with the agreement holders. Such conditions must, where applicable, be respectful of the values and needs of the Native people.

- To stipulate that the regional county municipalities and all other individuals and organizations listed in the Act must be invited to take part not only in the preparation of the general plans, but also in any future modifications.
- To provide for the circumstances that may justify the modification of a general plan during its term (e.g. the need to salvage wood going to waste following a major natural disturbance, the desire to maintain the allowable annual cut in an area damaged by a disaster, modification of the composition of the forest production areas in a given management unit, etc.).
- To stipulate that the annual management plan must be accompanied by data supporting the silvicultural treatments proposed by the agreement or contract holders.

Salvage of wood going to waste

It is proposed:

- To allow the Minister to require that agreement holders must participate in the implementation of special salvage plans for wood going to waste following a natural disaster, even if their contracts cover a management unit other than the one damaged by the disaster, where the volumes concerned exceed the salvage capacity of the holders directly involved. The volume of wood that agreement holders are required to salvage under a special plan will be included in the total volume that they are normally authorized to harvest under the terms of their agreements.
- To stipulate that, if an agreement holder refuses to participate in a special salvage plan for wood going to waste, the Minister may reduce the volume of wood that the holder in question is authorized to harvest during the current year or a subsequent year, by a volume equivalent to the volume it would have salvaged under the special plan.
- To allow the Minister to authorize wood processing plant permit holders without timber supply and forest management agreements to participate in the implementation of a special salvage plan where justified by the volumes of wood to be salvaged.
- To stipulate that, after implementing a special salvage plan, the Minister may authorize an agreement holder in the management unit in question to harvest all or part of the annual volume allocated to it in another management unit in which the harvest was reduced, and wood has therefore become available, because one or more of the agreement holders in that unit were involved in implementing the special salvage plan.

Control of operations

It is proposed:

- To stipulate the reporting obligations of agreement or contract holders, including the content of their annual management report, which must include the results of the silvicultural assessments required by law.
- To add activities carried out by the Minister to control silvicultural treatments applied by agreement holders to the list of activities financed by the Forestry Fund, to which agreement holders must contribute financially. The financial contribution payable by the holders of timber supply and forest management agreements will be increased accordingly.
- To extend the obligation of contributing to the Forestry Fund to the holders of forest management agreements and contracts.
- To state that the Minister will carry out annual verifications of the silvicultural assessments submitted by agreement and contract holders.

Management by results

It is proposed:

- To require that agreement and contract holders submit a five-year review of the forest management strategies proposed in their general management plans. The review will be included in the general plan submitted for the next five-year period, and will thus be made public.
- To stipulate that all agreement and contract holders must assess the extent and quality of the silvicultural treatments carried out every year, together with their impact on the stands, in order to establish their effectiveness. They must also estimate the volume of timber left on the logging sites. Where several agreements apply in a given management unit, the holders must make joint assessments and include them in their joint annual report.
- To stipulate that, when the Minister of Natural Resources revises the volume of timber allocated, at the time an agreement is extended, he must also take into account the following criteria, in addition to those established in the Act:
 - the individual industrial performance (optimal timber use) of each timber supply and forest management agreement holder;
 - the joint forestry and environmental performance of all agreement holders in a given management unit, when carrying out forest management work;

- the economic impact of a reduction in allocations due to a revision of the allowable annual cut, so that the Minister can divide the reduction between the various agreement holders, thus minimizing its impacts on the companies and communities concerned.
- To provide that the Minister will not increase the allocations of agreement holders whose environmental or forestry performance is below standard, since failure to meet the standard can have serious consequences.
- To provide that a poor industrial, environmental or forestry performance may lead to a reduction of the volumes allocated in an agreement, but that the Minister may delay such a reduction if the holder or holders concerned submit an adequate remedial program.
- To abolish the arbitration procedure currently available to agreement holders if the allocated volume is not revised in accordance with the Act. It is the Minister who revises allocated volumes, taking into account the public interest, and an arbitrator should not be able to call his decision into question. However, the common law courts may judge its legality.
- To include the provisions required to allow agreement or contract holders to fulfill their obligations by using methods or applying rules that differ from those stipulated by the Minister or by current regulations, in particular the *Regulation respecting the standards of forest management for forests in the public domain*. However, the holders must be able to show that the methods or rules they propose will allow them to achieve the objectives. Moreover, if such methods or rules do not produce the anticipated results, the Minister may, at any time, order the holders to abandon them.

Standardization of management rules

It is proposed:

- To stipulate that forest management agreement and contract holders have the same general obligations as the holders of timber supply and forest management agreements.

Consideration of Native people

It is proposed:

- That the government be allowed to adapt its regulations so as to reconcile forest management activities with the activities carried out by Native people for subsistence, ritual and social purposes.
- To authorize the Minister of Natural Resources to prescribe forest management standards that differ from those established in the current

regulations if the latter do not give proper consideration to the activities traditionally carried out by the members of a Native community for subsistence, ritual or social purposes, and to require agreement and contract holders to adjust their forest management plans accordingly.

Conservation of the forest environment

It is proposed:

- To allow the Minister of Natural Resources, with the agreement of the Minister of the Environment and the Minister responsible for Wildlife and Parks, and after hearing the observations of the holders of rights concerned, to classify certain areas of the public forest as exceptional forests ecosystems, and to establish rules of conservation that will preserve their features if, in exceptional circumstances, forest management or mining activities are authorized in those areas.
- To fix a limit north of which no timber supply and forest management agreements or forest management agreements will be allocated; to modify the agreements currently applicable to forest areas located north of the new limit, when the time comes to extend them, after allowing their holders to express their views and, as far as possible, to offer them alternative ways of maintaining their plant supplies.
- To stipulate that the Minister may grant forest management contracts beyond the new northern limit, but only to meet the needs of local communities.
- To review the rules applicable to the size and distribution of cutting areas, by amending the *Regulation respecting the standards of forest management for forests in the public domain*.

Management transparency

It is proposed:

- To make available to the public all annual management plans submitted by agreement and contract holders and approved by the Minister of Natural Resources, together with their annual management reports and other reports describing the participation of the individuals and organizations listed in the Act in the preparation of their general forest management plans (the plans themselves are already available to the public).
- To stipulate that the report on the state of Québec's forests which the Minister of Natural Resources is required to submit to the National Assembly once every five years must, among other things, describe forest management and the results achieved.

Additional provisions

It is proposed:

- To abolish the provisions concerning the granting of auxiliary timber guarantees. Only one such guarantee has been issued since 1986, and the new provisions concerning temporary logging permits are better suited both to the needs of the forest companies and to the requirements of forest management. The guarantees currently in force were almost all granted before 1986, and will be maintained until they expire.
- To allow the Minister to grant forest management permits for experimentation and research purposes without the need for an order-in-council, as is currently the case. The purposes for which such permits are issued and the volumes of wood involved are insufficient to justify this obligation.
- To allow the Minister to reduce the volume of wood that a holder is authorized to harvest under its annual permit where he observes that, in a previous year, the holder in question harvested volumes in excess of those to which it was entitled under the terms of the permit and allowed them to go to waste on the logging site. This measure is designed to optimize timber harvesting and ensure compliance with the allowable annual cut.
- To authorize the Minister to change the end use of wood harvested under a timber supply and forest management agreement if the agreement holder is unable to process it, either because the size of the trees is not compatible with the equipment in use at its mill, or because the mill has burnt down, for example. This provision is designed to avoid the loss of wood that has already been harvested.
- To abolish the current billing method (equal installments based on estimates of harvesting and silvicultural work), and to replace it with a monthly billing procedure based on harvested volumes, either scaled or estimated. Dues credits will be granted upon receipt of progress reports on the work planned.
- To abolish the provisions concerning the creation and management of forest education centres, which no longer exist.

The Forestry Fund

It is proposed:

- To add the activities carried out by the Minister of Natural Resources in order to ensure compliance with the *Forest Act*, the *Act respecting the ministère des Ressources naturelles* and any other legislative provision

with an impact on forest management to the list of activities currently financed by the Forestry Fund (production of seedlings for reforestation, preparation of forest surveys and forestry research).

- To stipulate that the contribution payable by agreement and contract holders will be used not only to finance the production of seedlings for reforestation, forestry research and forest surveys, but also to pay for the activities carried out by the Minister of Natural Resources in order to manage and develop the forests, including the preparation and approval of forest management plans, the issuing of management permits, the monitoring and control of forest management activities, the imposition of penalties, etc.

2 THE ACT RESPECTING THE MINISTÈRE DES RESSOURCES NATURELLES

It is proposed:

- To stipulate that the Minister of Natural Resources, subject to government approval, may develop and implement special programs to take forestry policies into account or to ensure economic or regional development.
- To stipulate that, where required to achieve the objectives of a given program, the Minister may impose any measures he considers necessary to promote sustainable forest management, or grant a right other than those stipulated in the *Forest Act*, provided such a right does not affect existing rights in the same area.
- To stipulate that the government may also establish rules that differ from those contained in the Act or a regulation, in order to ensure that the objectives of a given program are met.
- To stipulate that the management of the provisions of a given program, in particular those concerning the development of forest preserves, may be delegated to a municipality or a Native community.

3 OTHER LEGISLATION

Other additional amendments, together with some amendments for the sake of concordance, are also proposed, mainly in the *Cities and Towns Act*, the *Municipal Code of Québec*, the *Act respecting the conservation and development of wildlife* and the *Mining Act*.

PRESENTATION

The forests and the resources they offer are crucially important in every region of Québec and in hundreds of local communities that regard them not only as the basis for their economic development, but also as their hope for a more prosperous future. The forests must therefore be managed in a sustainable way, and this will only be possible if the citizens and communities who use, gain from or hope to gain from them are given a significant role to play.

The forests must therefore be managed for and with Quebecers. This demands a broad consensus on forest protection and development orientations, the standards governing forest activities and the obligations incumbent upon the individuals and organizations that have the privilege of using public resources. For such a consensus to be possible, available information on forest management and the results achieved must be widely circulated, and the opinions and expectations of Quebecers in general and forest users in particular must be known.

The forests must also be managed in an environmentally friendly way. Biological diversity must be maintained, as must, the wealth and quality of forest ecosystems, and the contribution of the forests to global ecological cycles – the water and carbon cycles, for example – must be preserved. In addition, forest management must contribute to the economic prosperity of Québec, its regions and its municipalities. It is therefore important to optimize the use of forest resources in order to consolidate the companies that depend directly or indirectly on them, and to increase the number of such companies and the jobs they create.

It was with sustainable development in mind that the Minister of Natural Resources undertook to update the current forest system. This document explains the orientations that the Québec government intends to take in the management and development of its forest resources, the measures it plans to adopt and the means it will be using to implement them. It also lists the aspects of the *Forest Act* that need to be improved if we are to meet the objectives we have set ourselves at the dawn of the new millennium.

The document is divided into two chapters. In the first one, the main elements considered for the proposed updating, including the principal conclusions from the forest system assessment published in 1998 and the highlights of the public consultations organized in the fall of that year are reviewed. In the second chapter, the amendments suggested to the *Forest Act*, its regulations and other legislations with an impact on forest management are presented. Lastly, the conclusion deals with the implementation of the forest system.

THE FOREST SYSTEM AFTER NEARLY 15 YEARS

The adoption of the *Forest Act* was a major turning point in the management and development of Québec's forests. In completing the revocation of the timber limits and other forms of supply guarantees still in force in late 1986, the Act terminated a timber allocation system that no longer met either the needs of forest companies or the market's new expectations for responsible and sustainable forest management.

The *Forest Act* abolished the exclusivity that had been granted to forest companies in certain areas, and introduced new rules governing the management and development of the public forests, including the obligation:



- to comply with the allowable annual cut;
- to restore to production all cutting areas and other sites used for forestry purposes;
- to protect the forest environment and its resources and to promote multiple-use;
- to obtain a forest management permit before undertaking forest management activities;
- to pay dues based on the market value of the timber harvested.

The Act also introduced the timber supply and forest management agreement, a new method of allocating timber in the public forests. The agreement is only issued to the holders of a wood processing plant permit and it allows them to harvest a given volume of timber from specific species. The volume in question is established on the basis of the plant's raw material requirements and the possibility of obtaining supplies from other sources, such as timber from private woodlots or chips, for example.

Agreement holders are required to achieve certain production objectives established by the Minister and stipulated in their agreements. To do this, they must plan and carry out forest management activities such as reforestation and pre-commercial thinning. They must also comply with environmental protection standards. The government helps fund these activities by allowing agreement holders to carry out silvicultural work as partial payment of their stumpage dues. To be admissible the work must comply with current standards and be consistent with the production objectives established by the Minister.

A timber supply and forest management agreement is allocated for a twenty-five-year period. However, it is reviewed every five years and extended for a further five-year period if the holder has fulfilled its commitments and complied with the provisions of the Act. When the agreement is reviewed, the volumes allocated and the area covered may be changed to take into account modifications in the needs of the plant and in the volumes of timber or fibre available from other supply sources, the average volume of roundwood obtained from the public forests and processed at the holder's plant in the last five years, management work carried out during that period, and any changes made to the allowable annual cut based on new data.

1.1 CHANGES TO THE FOREST SYSTEM SINCE 1986

The *Forest Act* and its regulations have been amended several times since they were first adopted. Among other things, the amendments were intended to:

- make the general and five-year forest management plans prepared by timber supply and forest management agreement holders available to the public before approval, for information and consultation purposes;
- oblige agreement holders to consult the regional county municipalities affected by the plans;
- allow the Minister to grant forest management contracts in forest reserves, in order to extend the range of individuals, companies and organizations able to benefit from the economic impacts of forest management and to promote economic development (for example, agreements have been granted to Native communities and municipalities);
- allow the Minister to reserve certain volumes of public forest timber on a temporary basis for individuals planning to construct wood processing plants or to increase the capacity of existing plants;
- allow the Minister to place temporary restrictions on the harvesting of timber from the public forests, in order to dispose of occasional surpluses of timber and fibre from other supply sources, such as timber from private woodlots and chips, for example;
- ensure that available recycled fibre are taken into account when calculating timber allocations from the public forests;
- improve current standards of forest management and stipulate that they may be adapted, if necessary, to reflect local conditions or the nature of the proposed management activities, in order to provide better protection for and promote multiple-use of the forest environment;

- make it possible to use a portion of the dues payable on timber harvested from the public forests to fund certain resource protection and development activities in the public and private forests (the *Forest Resource Development Program* was introduced following this particular change);
- allow for the creation of regional agencies for private forest development and to require every agency to prepare a protection and development plan that is consistent with the objectives of the development plans proposed by the regional county municipalities and that stipulates the methods to be used to guarantee the sustainability of timber supplies;
- authorize the agencies to provide financial or technical support for the protection or development of private forests in their respective areas;
- create a fund jointly fed by the State and timber supply and forest management agreement holders to finance forestry research, forest surveys and the production of seedlings for reforestation;
- stipulate that the forests constitute a collective heritage and that the Act must promote sustainable forest development in order to satisfy the needs of present and future generations;
- establish the criteria required to measure the impact of sustainable development work in Québec's forests. The criteria are the preservation of biological diversity, the maintenance and improvement of the condition and productivity of forest ecosystems, the conservation of soil and water resources, the maintenance of the contribution of forest ecosystems to global ecological cycles, the maintenance of the multiple socioeconomic benefits society derives from the forests, and the consideration given to the values and needs expressed by the populations concerned when selecting forms of development.

¹ *Updating the Forest System, Reference Document, Review-Issues-Orientations*. 1998. Québec, ministère des Ressources naturelles, gouvernement du Québec.

Updating the Forest System, Consultation Document. 1998. Québec, ministère des Ressources naturelles, gouvernement du Québec.

² *Updating the Forest System, Summary of Public Consultations, Fall 1998*. 1999. Québec, ministère des Ressources naturelles, gouvernement du Québec.

Updating the Forest System, Public Consultations, The Views of Native Organizations and Communities, Fall 1998. 1999. Québec, ministère des Ressources naturelles, gouvernement du Québec.

1.2 ASSESSMENT OF THE FOREST SYSTEM

In 1998, the ministère des Ressources naturelles published two documents in which it assessed the current forest system, evoked the issues of forest management and made proposals to ensure that the forests were developed in a more sustainable way¹.

In the fall of 1998, at the request of the Minister of Natural Resources, the regional development boards organized a series of public consultations in every region of Québec, and the Department invited the Native communities, together with fifty or so national organizations, to state their views on the forest system review. It then published the results of these consultations, from which a certain consensus had already begun to emerge with regard to the objectives of the forest system and, particularly, concerning public participation in forest management and the transparency of the management process².

1.2.1 Positive results

Some of the results the current forest system is expected to produce, such as reaching targeted forest yields, for example, can only be measured in the longer term. However, the assessment published by the ministère des Ressources naturelles clearly shows that the system has brought about an improvement in the management and development of Québec's public forests. In particular:

- better use is now made of timber and fibre;
- the forest environment is better protected;
- forest management activities have been intensified;
- a broader range of individuals and organizations are involved in forest development;
- the forests are used for a much wider variety of purposes;
- public and private forest management is more transparent;
- the development of the forest products industry has been promoted.

1.2.2 Potential improvements

Although the current forest system has had some positive impacts, there is still room for improvement:

- almost all available volumes of softwoods, the most sought-after species, have now been allocated, and if the forest products industry is to be consolidated and allowed to prosper, production must be increased both in the public and private forests;
- every year, some of the volumes allocated in the public forests are not used, and the rules should be relaxed to allow them to be harvested;
- unallocated volumes of timber in areas covered by timber supply and forest management agreements can be granted only to the owners of wood processing plants, and the system should be changed so that they can be used to meet other demands from increasingly diversified sources;
- the forest management plans prepared by timber supply and forest management agreement holders could be improved if they were based on more accurate forest data and if the strategies prepared for each forest management unit were better integrated;
- the method used to calculate the allowable annual cut could be improved if simulation hypotheses were better documented, if forest data were updated more frequently and if more weight were given to the effects of natural disturbances;

- the procedure established to inform and consult the general public on the general and five-year forest management plans submitted by timber supply and forest management agreement holders has not been as successful as was originally hoped, and it should be improved to promote participation by all interested parties;
- the measures adopted by the Department to enforce the Act and regulations should be reassessed and reinforced, and the human resources assigned to forestry and environmental control tasks should be reviewed;
- forest resource management continues to be sector-based, and it is therefore difficult to promote an integrated management approach.

In the coming years, it will be necessary:

- to increase forest production;
- to optimize the planning of forest management activities and extend the knowledge on which this activity is based;
- to make forest management control and monitoring procedures more effective;
- to really make multiple-use of the forest environment;
- to promote integrated management of forest resources;
- to enhance participation by concerned parties in the process of establishing forest management priorities and objectives;
- to enhance participation by communities and forest users in the preparation of management plans;
- to encourage everyone involved to improve their environmental, forest-related and economic performance.

1.3 A MAJOR ISSUE: SUSTAINABLE FOREST DEVELOPMENT

Forest management issues are closely tied in with the demands of sustainable development. Sound forest management must protect, maintain and preserve the vitality of forest ecosystems for the benefit of all living creatures. Its ultimate goal is to improve the social, environmental and economic prospects of present and future generations.

Sustainable forest management involves:

- treating the forests as ecosystems to be preserved, maintaining their diversity and preserving their natural processes;
- acknowledging the many social, environmental and economic benefits that the forests provide for communities, individuals and businesses, and striving to maintain or increase them.

The forests are a valuable collective heritage, and as such must be managed carefully and fairly. If they are to continue to play their ecological role, their biological diversity must be preserved and their resources must be managed in an integrated way. In addition, the socio-economic spin-offs from forest use, especially in terms of jobs and revenues, must not only be maintained but must also be enhanced for the well-being of local communities and society in general.

Use of the forest's multiple resources for economic purposes is consistent with the principles underlying sustainable development if:

- the products sold meet environmental standards;
- the spin-offs from forest resource development are distributed fairly among the communities;
- the populations concerned can be involved in the management and use of the land and its resources, and their values are upheld.

1.4 EXPECTATIONS

The following paragraphs summarize the main points to emerge from the comments of participants in the public consultations of late 1998 and from the 500 or so briefs submitted to the Minister:

- the Minister should promote a broader range of forest uses, including maple syrup production, to increase their social and economic spin-offs;
- integrated forest management should be introduced in areas shared by timber, wildlife and leisure resource users, if not in all Québec's forests;
- the way in which forest management plans are prepared should be reviewed in depth;
- the Minister should continue to assume responsibility for monitoring and controlling public forest management activities, and should fulfill that responsibility more effectively;
- controls should be tightened to ensure that the sustained yield principle is upheld;
- forest management activities should be monitored by independent auditors;
- the management of public forests should be more transparent;
- the forests should be made more productive;
- the contribution of private forests to mill supplies should be consolidated;
- the measures designed to maintain biological diversity should be reinforced;
- old forests and exceptional forest ecosystems should be protected;



- more individuals, businesses and organizations should have access to public forest resources;
- the communities, their institutions and their representatives should be able to influence the management of public forests by stating their needs and expectations and by participating in the planning of activities carried out in the areas of concern to them;
- the public forests should be developed in a way that is consistent with the values, particularities and traditional activities of the Native communities;
- a higher percentage of cutting dues should be invested in public and private forest development.

1.5 OBJECTIVES

If forest management and development is to be sustainable, the forest system must:

- be consistent with the values and satisfy the needs of the communities – in other words, it must take into account local and regional characteristics and priorities, and allow:
 - the general public, the communities as well as local and regional institutions to be involved in the forest management process;
 - the various spin-offs from forest use and development to be increased for the benefit of local communities, Native communities and the regions;
- secure the viability of forest ecosystems in order to maintain or increase the benefits derived from forest protection, conservation and development activities, while ensuring that:
 - the biological diversity of the forests and the contribution of the ecosystems to global ecological cycles are maintained;
 - resources are used efficiently;
- increase the socio-economic spin-offs from forest use – in other words, ensure that forest potential is developed in an integrated way, so as:
 - to increase production;
 - to promote optimal use of the timber resource;
 - to make Québec's industry more competitive and promote better resource processing;
 - to offer the State a fair return for the use of public forest resources;
- to make forest management more transparent – in other words, to strengthen the reporting requirements for all public and private players involved in forest management and development.

PROPOSED AMENDMENTS FOR THE UPDATING OF THE FOREST SYSTEM

2.1 PARTICIPATORY MANAGEMENT OF STATE-OWNED FORESTS

Forest resources must be managed and developed in the best possible way, and in the public interest. This means ensuring that the general public, local elected representatives, institutions and users of forest lands and resources are informed of the issues and results of public forest management, that they defend their values and that they express their needs and expectations, in order to influence government decisions as well as the management strategies planned by holders of rights over forest resources.



For this level of participation in the public forest management process to become possible, it is proposed that the *Forest Act* be amended so as:

- To allow the Minister of Natural Resources to draw up and implement a consultation policy. The results of the consultations will enable the Minister, in cooperation with any other ministers concerned, to determine the best orientations to be followed in each forest area, in terms of resource production, protection and development. The policy will stipulate not only the authorities to be consulted, such as the Forum Forêt and the regional development boards, for example, but also the procedures to be applied and the frequency of the consultations. It will also take the specific situation of Native people into account, to ensure that the consultation rules reflect their needs.
- To appoint a number of people who will be involved in drawing up the general forest management plans required from timber supply and forest management agreement holders and by all other individuals and organizations authorized to harvest wood from the public forests. This type of involvement should promote the integration of activities in the forests³.
- To give all citizens access to the annual management plans approved by the Minister of Natural Resources and to the annual reports submitted by forest management agreement and contract holders.

³ See subsection 2.3.5

- To stipulate that the report on the state of the forests, submitted every five years to the National Assembly by the Minister of Natural Resources, should address the issue of forest management and its results.

2.2 GRANTING RIGHTS OVER FOREST RESOURCES

One of the means available to the Minister of Natural Resources to influence the development of the forest products industry is the granting of rights over public forest resources. The adoption of the *Forest Act* has had a significant impact at this level.

The abolition of the timber limits held by certain companies has been favourable to the development of the lumber and board industries, for instance. The granting of timber supply and forest management agreements has given more companies access to more secure supplies, thus enabling them to plan their activities in the longer term and to obtain funding for their projects more easily. In addition, the timber resource is put to better use now than before the current forest system was introduced. Processing rates for roundwood from all sources are increasing, a higher percentage of the volumes of wood allocated in the public forests is being harvested, and the market for wood by-products is growing steadily. However, improvements are still possible and desirable, for example:

- By increasing the percentage of allocated volumes actually harvested. The granting of agreements providing long-term supplies for certain companies should not prevent local and regional communities, or indeed Québec as a whole, from taking full advantage of the economic spin-offs from forest management and wood processing. Agreement holders have priority, but when they cannot harvest all the wood allocated to them, for one reason or another, it should be possible to make that wood available to other companies.
- It should be possible for individuals and organizations other than the holders of wood processing plant operating permits to obtain access to available timber resources in the public forests. This would promote maximum resource use and encourage more diversified and even better quality forest management.
- The development of all forest resources offering potential as well as those for which markets exist or could be developed should be encouraged, provided this can be done in compliance with the principle of sustainable development. The granting of a right over a given resource should not prevent other people from using the forest's other resources.
- Forest management rules should contribute to business stability, but this does not mean that forestry sector players should be immutable.

The government should be able to give priority to the companies with the best environmental, forestry and industrial performance records, and this may involve modifying certain rights granted on the forest resources. The government will, however, always be required to act fairly and transparently.

2.2.1 The timber supply and forest management agreements

The timber supply and forest management agreement is the main tool used by the Minister of Natural Resources to allocate volumes of wood in the public forests. The holder of a wood processing plant operating permit who obtains a timber supply and forest management agreement is authorized to harvest a given volume of roundwood of one or more species from a given area, every year, to supply his own mill. In exchange, the holder agrees to comply with the obligations stipulated in the agreement, the *Forest Act* and the related regulations, with regard to the planning of forest management activities, for example. The holder is also required to carry out the silvicultural treatments needed to achieve the forest yields set by the Minister for each forest area covered by the agreement.

The updated forest system will still authorize agreement holders to harvest a given volume of roundwood for processing at their mills, but it will modify their obligations as regards forest management.

It is proposed that the *Forest Act* be amended in order:

- To recognize that the Minister of Natural Resources, in cooperation with any other ministers concerned, is responsible for establishing production and management objectives for the public forests, including:
 - optimal sustained yields for all forest areas;
 - medium-term and long-term increases in forest production;
 - the protection of the forest environment or the development of its resources.
- To stipulate that all agreement holders must carry out the silvicultural treatments required by the Minister to protect, develop or increase production in the forests, as well as those required to comply with the sustained yield principle.

The rules governing the granting of timber supply and forest management agreements will be improved and made fairer. For example, it is proposed that the *Forest Act* be amended in order:

- To ensure that timber allocated to agreement holders or marketed by forest management contract holders⁴ is taken into account in the same

⁴ See subsections 2.2.2 and 2.2.4

way as chips and timber from the private forests when calculating the residual volume of public forest timber allocated in timber supply and forest management agreements. This will encourage holders to use this timber to meet the needs of their mills.

Agreements will continue to be granted only if the allowable annual cut so permits and if the Minister feels they are justified in the public interest, meaning that the sustainable development criteria set out in the Act must be met. Moreover, the Minister will only grant an agreement where it would be consistent with the orientations adopted following the public consultations organized in accordance with the *Forest Act*⁵.

A timber supply and forest management agreement covers an initial period of 25 years. It is extended every five years for a further five-year period if the holder has complied with its commitments and with the provisions of the Act and regulations. The *Forest Act* already allows the Minister, when extending an agreement, to review both the volume of wood allocated to the holder and the area covered by the agreement, so as to take into account:

- any changes in the needs of the wood processing plant;
- any changes in the volumes of wood available from the other supply sources considered when allocating volumes of wood from the public forests;
- the average volume of roundwood harvested in the public forests and consumed by the mill in the five previous years;
- the allowable annual cut, as revised in light of new data;
- the forest management activities carried out by the holder in the last five years.

If the full environmental, forestry and economic impacts of timber allocations are to be taken into account, agreement extensions must be subjected to additional conditions. For example, the Minister of Natural Resources must ensure that forest use generates as many benefits as possible for Québec society. Timber supply and forest management agreements should not hinder developments resulting from the acquisition of new knowledge or changing business needs, since such developments may be advantageous to society as a whole. Moreover, mills should still have to earn the supply stability granted by the Act, by either maintaining or improving their performances. Indeed, any individual or organization given priority access to a public resource should pay a fair price for that privilege, and should use the resource in such a way that society as a whole obtains tangible and sustainable benefits.

Under the current system, agreement holders have certain responsibilities and obligations when it comes to managing and protecting

⁵ See section 2.1

the forest environment. The Minister should therefore assess their performance in this regard, since society cannot tolerate behaviour that affects the quality, value or productivity of its forests.



It is therefore proposed that the *Forest Act* be amended in order:

- To stipulate that, when reviewing the volume of wood allocated in an agreement, the Minister should consider not only the roundwood harvested in the public forests but also that obtained from other sources (such as the private forests, for example) in order to establish the mill's average annual consumption. The Minister could then decide whether the supplies obtained from these other sources are sufficient, since the public forests are meant to be residual supply sources only.
- To stipulate that the wood allocated to forest management agreement holders or marketed by forest management contract holders should be included in the supply sources considered when reviewing the volumes that a timber supply and forest management agreement holder is permitted to harvest in the public forests.
- To stipulate that, when reviewing the volumes allocated by an agreement, the Minister must also consider:
 - the holder's industrial performance in terms of timber use;
 - the combined performance of the agreement holders in a given management unit in terms of forest management and conservation;
 - the impact of a reduction in allocated volumes of wood on economic activity, when such a reduction is made necessary following a review of the allowable annual cut. The Minister should be able to divide the reduction between the agreement holders in the management unit, to minimize its impacts on the companies and the communities concerned.

Following the review of the *Forest Act*, the ministère des Ressources naturelles will develop indicators to assess the performance records of agreement holders in terms of industrial timber use, forest management and forest conservation. As all the agreement holders in a given management unit will be required, together, to apply the management strategies described in their joint general management plan, they will become jointly responsible for the quality of their work and the protection of the environment, and they will be assessed accordingly. If the Minister considers their performance to be substandard, based on the assessment criteria developed, he may reduce the volumes of wood initially allocated.

It is also proposed that the *Forest Act* be amended to ensure:

- That criteria relating to the performance of the agreement holders in terms of forest management and conservation receive priority when reviewing allocated volumes. The volumes of wood allocated to agreement holders who have failed to achieve the performance thresholds set by the Minister cannot be increased under any circumstances, since the potential consequences of a failure to meet these criteria are serious. They may, however, be reduced.
- That the Minister is able to postpone a reduction in the volumes of wood allocated if the agreement holders at fault submit measures aimed at correcting the situation and complying with the criteria. The measures approved by the Minister will be made public.

The Minister of Natural Resources will be responsible for assessing the performance of agreement holders in relation to the criteria established in the Act, and for deciding what measures, if any, should be taken to mitigate the economic impacts of an allocation reduction resulting from a revision of the allowable annual cut. Accordingly, it is proposed that the *Forest Act* be amended in order:

- To abolish the arbitration procedure currently available to agreement holders who feel their allocated volumes of wood have not been revised in accordance with the criteria set out in the Act. Since new criteria will be applied following a decision made by the Minister, in the public interest, it would not be appropriate for an arbitrator to consider or review their relevance. However, the common law courts will be able to judge the legality of their application.

Lastly, it is proposed that the *Forest Act* be amended to allow:

- review dates and five-year agreement extension dates to be synchronized with the date on which the general forest management plans will come into force;
- a single schedule to be established for the updating of all general forest management plans throughout Québec.

2.2.2 The forest management agreement

Companies other than wood processing plants should have access to the public forests, provided this would benefit the communities concerned.

It is therefore proposed that the *Forest Act* be amended:

- To introduce a new method of allocating timber from the public forests, known as the forest management agreement. Forest management agreements will be available to legal persons without wood processing plant operating permits whose directors have no links with anyone

holding such a permit. The conditions for obtaining a forest management agreement will be established by the Minister, based among other things, on the comments made at the public consultations required by law. The Minister could, for example, require:

- that an applicant submit a business plan covering the term of the agreement;
- that an applicant be supported by the regional development board of the region in which the timber is available. If the applicant is a Native organization, the band council would have to give its support.

It is also proposed that the *Forest Act* be amended to add the following clarifications concerning the new agreement:

- A forest management agreement will only apply to one or more management units, and only to volumes that have not been allocated by a timber supply and forest management agreement. In view of the volumes currently available, this form of agreement is likely to become important only in the longer term.
- A forest management agreement will only be granted if:
 - the allowable annual cut so permits;
 - the Minister believes it would be in the public interest, i.e. it would help achieve sustainable forest management objectives.
- A forest management agreement will give its holder the right to harvest a certain volume of wood from the public forests and to sell that wood to processing mills. The holder will have certain obligations under the agreement, the *Forest Act* and the related regulations, in particular with regard to planning, management activities and the silvicultural treatments required to comply with the sustained yield principle or to achieve the protection and development objectives set by the Minister. The holder must also obtain an annual permit before harvesting wood, applying silvicultural treatments or carrying out any other management activity.
- A forest management agreement will be issued for a term of five years, but this period may be reduced to harmonize the renewal date with the extension date of any timber supply and forest management agreements in the same area.
- The Minister will be able to renew a forest management agreement for a further period of five years if he considers that this would be consistent with his own orientations and the public interest, that the volumes of wood sold by the holder have been sufficient, and if the holder has complied with all its legal and contractual obligations.

When renewing an agreement, the Minister will revise the volume of wood allocated to the holder, taking into account:

- the allowable annual cut, as revised in light of new data or knowledge;
- the forest management activities carried out by the holder during the term of the agreement;
- the holder's performance record in terms of forest management and conservation.

A forest management agreement holder will have the same basic obligations as a timber supply and forest management agreement holder. It is therefore proposed that the *Forest Act* be amended to stipulate that all forest management agreement holders must:

- Prepare a general forest management plan taking into account the allowable annual cuts and annual yields calculated by the Minister for the forest areas in question, as well as the protection and development objectives set by the Minister for the management unit. The plan must be consistent with the legal obligations incumbent upon timber supply and forest management agreement holders, and must be submitted to the Minister of Natural Resources for approval.
- Prepare an annual plan and have it approved by the Minister, in order to obtain a forest management permit. The plan should be drawn up in accordance with the instructions provided for timber supply and forest management agreement holders.
- Carry out the forest management activities and apply the silvicultural treatments required to achieve the annual yields as well as the protection and development objectives set by the Minister. The silvicultural treatments applied by the holder will be admissible as payment of dues, in accordance with the legislation and regulations in force.
- Every year, make a qualitative and quantitative assessment of the silvicultural treatments applied and submit it to the Minister, along with any other silvicultural evaluations required of timber supply and forest management agreement holders.
- Submit an annual activity report to the Minister.
- Pay its stumpage dues as well as its contributions to the forest protection organizations and the Forestry Fund.
- Cooperate with timber supply and forest management agreement holders wherever the law requires joint action. For example, a forest management agreement holder must work with the timber supply and forest management agreement holders in the unit covered by the

agreement when the joint general forest management plan for that unit is drawn up, in particular:

- to appoint the person who will represent the holders in dealings with the Minister as the plan is being prepared (this will also be a requirement for the annual plan and for the preparation of any reports submitted pursuant to the Act);
- to establish their joint management strategies;
- to establish a five-year forest management program;
- to adopt the decision-making and conflict resolution procedures applicable to all agreement holders in the management unit when preparing and implementing annual management plans.

Forest management agreement holders, like all other agreement holders, will also be required to involve regional county municipalities, Native communities, ZEC operators, outfitting permit holders, holders of sugar bush management permits for maple production purposes, pursuant to the *Forest Act*, and anyone who organizes activities or offers services in a wildlife preserve in the preparation of the general forest management plan required for each unit covered by their agreements.

The holders of forest management agreements and timber supply and forest management agreements in a given management unit must submit a joint annual management plan. The requirements concerning integration of the annual plan, as stipulated in the Act, will also apply to forest management agreement holders⁶. Like timber supply and forest management agreement holders, they will have to ensure that the management strategies stipulated in the joint general plan are actually implemented. They will be jointly responsible for these strategies, and will be required to submit joint activity reports to the Minister.

It is also proposed that the *Forest Act* be amended to stipulate that:

- the Minister may revoke a forest management agreement at any time, if he believes the holder:
 - has not met its contractual obligations;
 - has not met the standards of forest management applicable to its activities;
 - has not paid its stumpage dues;
 - has terminated its activities.

Lastly, a forest management contract holder will be able to sell the wood it harvests on the open market, either by auction or by signing a mutual agreement with the holder of a wood processing plant operating permit, whether or not the latter also holds a timber supply and forest management agreement. By allowing agreement holders such flexibility

⁶ See section 2.3

in selling the wood harvested, the Minister is aiming to ensure that wood from the public forests is used and processed optimally and to maximize the spin-offs for local communities.

2.2.3 The temporary logging permit

Every year, a certain percentage of the timber allocated in timber supply and forest management agreements is not harvested. While the Minister of Natural Resources does not wish to question the allocations or the rights of the agreement holders concerned, he must nevertheless be in a position to ensure that the wood is harvested by other companies, where it would be in the public interest to do so.

It is therefore proposed that the *Forest Act* be amended in order to allow the Minister:

- to authorize someone to obtain all or part of the volumes of wood allocated to a timber supply and forest management agreement holder if that holder has not harvested them, does not plan to do so before the general management plan expires, or will not be able to do so due to the provisions of the *Forest Act*;
- to issue a temporary logging permit enabling the wood to be harvested in order to supply a processing mill, provided :
 - the holder of the permit already holds a wood processing plant operating permit;
 - the permit is issued for a maximum period of twelve months and does not entail any subsequent obligation or commitment for the Minister;
- to offer available volumes to the person of his choice, who must pay for them in accordance with current tariffs;
- to accept silvicultural treatments carried out by the temporary logging permit holder as payment of dues.

The recipient of a temporary logging permit from the Minister for a given management unit must take part in the preparation of the joint annual management plan and annual activity report to be submitted by the unit's agreement holders. The *Forest Act* will also state that the recipient must agree with the holders to:

- determine the forest management work for which it must pay, given the volume of wood it is authorized to obtain, or which it must carry out if the other holders designate it for that purpose;
- establish conditions for joint transportation of the timber, and divide the cost of this activity;
- stipulate the percentage of stumpage dues it will have to pay in the form of silvicultural treatments, where applicable.

If a misunderstanding occurs, the conflict resolution mechanism described in the general plan will apply⁷.

A temporary logging permit holder obtaining volumes of wood previously allocated to a timber supply and forest management agreement holder must reimburse the latter for any contribution it paid to forest protection organizations and to the Forestry Fund in respect of those volumes.

2.2.4 The forest management contract

Some of the provisions governing forest management contracts on forest reserves remain unchanged. The Act currently allows the Minister to entrust the management of certain forest areas to a person of his choice, by means of a forest management contract, in order to promote regional economic development. The purpose of the contract has not been changed, but the obligations arising from it have, since holders will in future be subject to the same sustainable forest development obligations as agreement holders.

Accordingly, it is proposed that the *Forest Act* be amended to stipulate that every forest management contract holder must:

- Prepare a general forest management plan that takes into account the allowable annual cuts and forest yields calculated by the Minister as well as the protection and development objectives set for the forests in question. The plan must include a program of activities for the term of the contract, i.e. a period of five years or less, as the case may be. The Minister, who must approve the general plan, may specify its form and content in the contract.
- Prepare an annual management plan stipulating the forest management activities to be carried out during the year as well as the areas concerned, and have the plan approved by the Minister. The plan is required among other things when applying for an annual management permit. The Minister may stipulate the form and content of the plan in the contract.
- Carry out the forest management activities and apply the silvicultural treatments required to achieve the annual yields or any other management objective set by the Minister in order to protect or develop the forest. The silvicultural treatments carried out by the holder will be admissible as payment of dues, in accordance with the Act and regulations in force at the time.
- Make an annual qualitative and quantitative assessment of the silvicultural treatments applied, and submit it to the Minister along with any other evaluations required of timber supply and forest management agreement holders.

⁷ See section 2.3.4

- Submit to the Minister, every year, an activity report containing a description of the work carried out and the results of the evaluations required pursuant to the Act.

It is also proposed that the *Forest Act* be amended in order:

- To stipulate that forest management contract holders, like timber supply and forest management agreement holders, are required to invite regional county municipalities, Native communities, individuals or organizations entering into agreements concerning ZEC management, outfitting permit holders, holders of sugar bush management permits for maple production purposes, pursuant to the *Forest Act*, and anyone organizing activities or providing services in a wildlife preserve to participate in the preparation of their general forest management plan.
- To stipulate that the general forest management plan, the annual management plan approved by the Minister and the annual activity report of a forest management contract holder must be made available to the public.
- To stipulate that forest management contract holders must comply with the provisions of the Act concerning the consultations applicable to their general plan.
- To state that the methods of payment established for the stumpage dues of management contract holders do not apply to Native communities, in the same way that they do not currently apply to municipalities.
- To stipulate that forest management contract holders must be members of forest protection organizations recognized by the Minister, and must pay the contributions required by those organizations. They must also pay contributions to the Forestry Fund.

When these rules come into force, they will apply to all new forest management contracts. Contracts signed before the *Forest Act* was amended will be subject to them upon renewal. However, the obligation to contribute to the Forestry Fund and the forest protection organizations will apply from April 1, 2001.

2.2.5 The forest management permits

The *Forest Act* stipulates the type of permits that the Minister can issue for the supply of wood processing plants or to promote multiple forest use, including the harvesting of firewood for domestic or commercial purposes, wildlife or recreational development projects, public utility works, or sugar bush management for maple sugar production purposes.

It states that a permit for the supply of a wood processing plant can only be issued to the holder of a timber supply and forest management agreement, except in some rare cases provided for in the Act. However,

forest management contract holders are also able to offer wood to mill owners, whether or not they hold timber supply and forest management agreements, and forest management agreement holders will eventually be able to do the same. An annual forest management permit must also be obtained before undertaking any forest management work.

It is therefore proposed to stipulate in the *Forest Act*:

- that all holders of forest management agreements or contracts and all holders of wood processing plant operating permits who obtain temporary volumes of wood must also obtain a forest management permit for the supply of a wood processing plant before beginning to harvest wood or undertaking any other forest management activity proposed in their annual plans.



The other permits designed to promote multiple use of forest resources remain unchanged, except for:

- the permit issued for a wildlife or recreational development project, which will be broadened to include agricultural developments (e.g. blueberry farms);
 - the permit for punctual activities, which will in future be known as a “permit for experimentation and research purposes”; this change was made necessary by the removal of the provisions relating to guaranties of auxiliary timber supply⁸;
- the sugar bush management permit, which in future will authorize its holders to carry out activities with a view to supplying mills, in addition to their maple syrup production activities. However, the following conditions will apply:
 - the sugar bush must be located in a forest reserve or, if it falls within the boundaries of a management unit, in a forest area not intended for forest production;
 - the forest management activities carried out with a view to supplying a mill must be approved by the Minister, who must first have received a plan prepared by the permit holder and approved by a forest engineer;
 - the permit holder must pay dues for the wood harvested, calculated in accordance with current regulations; the dues will be in addition to those payable for maple syrup production operations; the holder can pay his dues in cash or in silvicultural treatments, in accordance with the conditions applicable to agreement and contract holders;
 - the permit holder must submit an annual report on any activities carried out.

⁸ See subsection 2.2.9

In addition, the Minister will in future be able to issue sugar bush management permits for maple syrup production in respect of sugar bushes located in forest production areas covered by a timber supply and forest management agreement or a forest management agreement. In this case, measures will be taken to harmonize the activities of the agreement holders with those of the sugar bush management permit holder.

2.2.6 Management permits for the commercial harvesting of bushes or tall shrubs

There is a growing demand for the right to harvest bushes or tall shrubs from the public forests, for commercial purposes. Those interested have asked for exclusive rights to harvest these plants in specific areas. They want supply stability, so as to be able to obtain funding for their projects more easily, and would like other industrial forest users to be informed of their needs and to take them into account. Demand is still quite low and it would not be useful to regulate this type of harvesting systematically. However, since it is important to preserve the biodiversity and quality of the public forests, the activity will be subject to some of the rules applicable to the harvesting of trees.

It is therefore proposed that the *Forest Act* be amended:

- To allow the Minister to issue a management permit for the commercial harvesting of bushes or tall shrubs. The Department will consult agreement and contract holders in the area to which the permit would apply.
- To stipulate that the permit is issued with a view to supplying a processing mill.
- To stipulate that permit holders must comply with the conditions imposed by the Minister, in particular with regard to forest conservation, protection of harvested species and the integration of all the activities of permit, agreement or contract holders in the area.
- To limit the term of the permit to twelve months, while allowing the holder to obtain a renewal if he complied with the Act, regulations and conditions imposed by the Minister. However, the Minister may revise the volume allocated and the area covered by the permit, either to take into account the company's new needs or to provide better protection for the forest or the species harvested.
- To require anyone harvesting bushes or tall shrubs for commercial purposes to pay dues based on the market value of the resource.

2.2.7 Dues payable by permit holders

Pursuant to the principle formulated in the *Forest Act*, the unit rates applied when calculating the dues payable for a species or group of species are based on stumpage values. Unit rates vary according to the region in which harvesting takes place. In addition, under the *Regulation respecting forest dues*, the “parity” technique (valuing an object by comparing it with another object whose sale price is known) is used to calculate stumpage values for the annual unit rate grid revision. The boundaries of tariff zones are also reviewed periodically, to ensure that the holders of rights are treated as fairly as possible. Lastly, the stumpage values of each species, group of species and quality class in each tariff zone are published yearly in the *Regulation respecting unit rates*.

Dues are now indexed every three months. Prior to this, there was a two-year time lag between the analysis of private market prices and the adjustment of dues payable on wood harvested in the public forests. This often led to periodic over- or under-billing. An indexation mechanism based on the monthly finished goods price indexes published by Statistics Canada was therefore introduced, leading to a shorter average dues adjustment period and fairer billing.

Generally speaking, the dues payable on wood harvested in the public forests follow market trends, and the ministère des Ressources naturelles therefore intends to maintain the current system. However, there are still a number of exceptions to this rule, even though it is important that dues payable should always be based on the market value of the wood or the other resources harvested, regardless of who harvests them or how they are used.

It is therefore proposed that the current regulations be amended to ensure that:

- in the medium term, all management permit holders pay dues corresponding to the market value of the wood or the other resources harvested in the forests;
- that the dues payable by the holders of sugar bush management permits in public forests be gradually brought into line with those payable in the private sector.

2.2.8 Reserving certain volumes of wood

The *Forest Act* allows the Minister to enter into agreements with people planning to construct wood processing mills or to increase the capacity of existing mills, and to reserve a certain volume of wood from the public forests for that purpose, for a sixmonth period. The goal of this provision is to promote the implementation of industrial projects.

The Minister can enter into such an agreement when available volumes are sufficient, based on the allowable annual cut. The agreement is renewable for five periods of six months and it requires the beneficiary to pay, for each period, dues equal to 20% of the product of the reserved volume, multiplied by the unit rate established in accordance with section 72 of the Act.

So far, this provision has had a positive impact, since it has facilitated the implementation of sixty industrial projects. It has therefore been maintained. However, the renewal of an agreement should not be automatic, and it is the Minister's responsibility to decide if it is appropriate, based on his orientations.

Accordingly, it is proposed that the *Forest Act* be amended to stipulate:

- that it is the Minister's responsibility, at the end of each six-month period, to decide whether or not it is appropriate to continue to reserve volumes of timber for the same person for a further period of six months;
- that the total term of such an agreement cannot exceed five six month period.

2.2.9 Various provisions concerning timber harvesting and use

To ensure that optimal use is made of wood from the public forests, and to avoid timber loss or deterioration, it is proposed that the *Forest Act* be amended:

- To stipulate that timber supply and forest management agreement holders who do not harvest all the wood to which they are entitled in a given year may carry over unharvested volumes to subsequent years, until the general forest management plan expires. However, in a given year, a holder who wishes to harvest those volumes cannot, under any circumstances, harvest more than 115% of the volume allocated, and may not carry over unharvested volumes beyond the period covered by the general plan, even if the Minister has applied section 46.1 of the Act during that period. Section 46.1 allows the Minister to reduce the authorized harvest in a given year to promote the disposal of surplus timber from the other supply sources indicated in the *Forest Act*. It would be difficult to reconcile an extension of the carry-over harvesting period beyond the term of the general plan with the adoption of a new general forest management plan.
- To authorize the Minister to modify the end use of wood harvested in the public forests when the holder of a timber supply and forest management agreement is unable to process it. This measure is aimed at avoiding timber losses and promoting optimal use of the resource.

- To authorize the Minister to issue management permits for experimentation and research purposes, without having to obtain authorization from the government. The adoption of orders-in-council to this effect appears to be superfluous, given the small volumes of wood involved and the purpose of the permits, which is to promote forestry research and experimentation.
- To abolish the provisions concerning the granting of guaranties of auxiliary timber supplies, since the only such guaranty entered into since the Act was adopted, in 1986, was subsequently rescinded. If necessary, the Minister can apply the new rules concerning temporary logging permits for wood allocated but not harvested, or the existing rules that allow him to act when a timber supply and forest management agreement holder does not fulfil a commitment to supply chips, shavings or sawdust to another holder. The handful of guaranties issued before 1986 will remain in force until they expire.
- To allow the Minister to reduce the authorized harvest volume in an annual permit where the volumes harvested by the holder and those left on the cutting area during a given year exceed the volume authorized in the permit. This measure is designed to ensure optimal harvesting and compliance with the allowable annual cut.
- To repeal the current billing method (equal installments based on wood harvested and proposed silvicultural work), replacing it with monthly billing based on harvested volumes, either scaled or estimated. Dues credits will be granted upon receipt of work progress reports.

2.3 FOREST MANAGEMENT

The current forest management rules were adopted, among other things, to ensure compliance with the allowable annual cut, to preserve forest diversity and to permit multiple use of the forest environment. Forest management plans must therefore integrate the activities of everyone authorized to harvest wood in a given area. In addition, they must take into account the concerns of the general public and other forest users.

The present system is based in particular on the accountability of timber supply and forest management agreement holders, who must draw up and implement strategic and operational plans designed to ensure quality forest management. They must also take part in the implementation of special salvage plans prepared by the Minister, especially where there is a risk that timber will be lost as a result of a natural disaster.

Following the assessment of the forest system, it became clear that some aspects of the planning process should be improved. For example:

- the boundaries of common areas, on which management plans are based, have often been changed over the years, and greater stability is now needed if the planning and monitoring of management work is to be improved;
- agreement holders should not make do with data collected by the ministère des Ressources naturelles in his ten-year forest survey, but should collect more abundant and more precise data of their own;
- the management strategies prepared by the holders of agreements in the same management unit should be better integrated, and individualistic behaviour should be discouraged;
- the allowable annual cut calculation should be further improved and better controlled, since it guarantees the sustainability of resources and economic activity and also determines the Minister's leeway in allocating new volumes of timber or promoting other forest uses;
- the procedure introduced to inform and consult individuals and groups on the forest management plans drawn up by agreement holders has been successful to some extent with regional county municipalities, but the general public and other forest users are not yet sufficiently involved in the process.

Besides the population is more and more demanding with regard to forest management planning. Indeed, Quebecers believe that:

- forest users should ascribe more importance to maintaining the diversity of forest ecosystems and the species inhabiting them;
- it is imperative to provide better protection for all forest resources;
- it is urgent to optimize forest production if we are to maintain mill supplies, support the development of the forest products industry and allow for multiple use of the public forests, despite the sometimes negative impacts of natural disturbances, reductions in timber supplies resulting from new knowledge, and the anticipated increase in the number and size of protected areas (parks, etc.).

It is therefore vital that:

- forest management should aim to achieve specific objectives established by the Minister after consulting various people;
- the management strategies drawn up by the people authorized to harvest wood in a given forest area should be consistent with the objectives established by the Minister;
- the Minister should retain sole responsibility for calculating the allowable annual cut;

- everyone authorized to harvest wood in a given management unit should prepare their forest management plans and strategies jointly, and be held jointly responsible for implementing them;
- forest plans should be prepared on the basis of stable territorial units as well as of accurate and complete data; the people responsible for preparing the plans should thus be required to obtain any missing data within a reasonable period.

2.3.1 Stability of management units

As mentioned earlier, forest planning must be based on stable management units if the forests are to be managed in a truly sustainable way. It is therefore proposed that the Minister of Natural Resources should review the boundaries of common areas, which will in future be known as “forest management units”, and modify current agreements if necessary, to stabilize territorial distribution. In doing this, the Minister will consider a number of biophysical criteria as well as the history of forest land use by forest companies, other players and other occupants, including the Native people. The final boundaries should be established by September 1, 2002 at the latest, so that agreement holders can use them as a basis for their new general management plans to be submitted in 2004. Transitional measures will be introduced to standardize the general management plan preparation schedule for all the new units throughout Québec.

It is therefore proposed that the *Forest Act* be amended:

- to state that the Minister of Natural Resources will divide the public forests into management units that will be used as a basis for calculating the allowable annual cut, setting protection and development objectives, establishing the volumes of timber to be allocated and preparing forest management plans;
- to stipulate that the Minister of Natural Resources may, exceptionally, modify the boundaries of management units, subdivide the units or group them together where this is made necessary by a reduction in the areas used for timber production or where, due to another factor, a given unit no longer has the attributes necessary for optimal forest management.

The Minister will invite municipalities, Native communities and the other groups and individuals mentioned in the consultation policy⁹ to express their views concerning the proposed new boundaries. The holders of timber supply and forest management agreements, forest management agreements and forest management contracts will also have the opportunity to make comments.

⁹ See section 2.1

The delimitation of the areas given over to forest production in a management unit may also be reviewed, in accordance with the rules stipulated in the Act. The *Forest Act* currently allows the Minister to modify the area covered by an agreement during a five-year period, where required by another Act, where it is in the public interest or where necessary due to a change in the *Public Land Use Plan*.

Accordingly, it is proposed that the *Forest Act* be amended:

- to stipulate that the Minister may, at any time, modify the forest areas used to calculate the allowable annual cut for a management unit, where this is required:
 - to allow for the application of another Act;
 - to comply with the provisions of the *Forest Act* concerning exceptional forest ecosystems or the issuing of a sugar bush operating permit for maple production purposes;
 - to take into account changes to the *Public Land Use Plan*;
- to eliminate the reference to changes in the public interest, first because the public interest is considered in all Québec's legislation, and second because it is already possible to modify forest production areas to allow for the application of another Act;
- to stipulate that the Minister can modify an agreement or contract, after giving its holder the opportunity to be heard on the matter, where a modification of the area used for forest production results in a reduction in the allowable annual cut, leading in turn to a reduction in the volume of wood allocated in the agreement or contract;
- to state that the holder of such an agreement or contract will receive fair compensation if he has carried out forest management work in accordance with the plans approved by the Minister but has not been given dues credits for the activities in question.

2.3.2 Calculation of the allowable annual cut

Forest management must be aimed at achieving the timber production, forest protection and forest development objectives set by the Minister.

Accordingly, it is proposed that the *Forest Act* be amended:

- to state that the Minister will supervise the preparation of the general management plan that agreement holders are required to submit for each management unit;
- to stipulate that the general forest management plan prepared jointly by all the holders of timber supply and forest management agreements and forest management agreements in a given management unit must take into account the allowable annual cut and annual yield of

each forest area, as calculated by the Minister. When making these calculations, the Minister must consider the forest management strategies prepared jointly by the agreement holders, under his supervision, as well as the constraints imposed by the other protection and development objectives set by him;

- to stipulate that agreement holders, in their management strategies, must state the means they intend to apply to achieve the forest yields and the protection and development objectives set by the Minister.

The same rules and obligations will apply to forest management contract holders.

2.3.3 Joint plans and reports

In most cases, several agreement holders are authorized to harvest volumes of wood for supplying their processing mills in each management unit. It is therefore essential for these holders to harmonize their operations if they are to achieve the objectives set by the Minister. The *Forest Act* already requires agreement holders to integrate their forest management activities, but as mentioned earlier, the results have been somewhat mitigated.

Accordingly, it is proposed that the *Forest Act* be amended:

- to require all agreement holders in a given management unit to prepare and submit joint management plans, evaluations and activity reports;
- to stipulate that agreement holders must designate among their group one or more representatives who will carry out each of the forest management activities provided for in their joint annual plan;
- to stipulate that, despite this distribution of work, each agreement holder is jointly responsible with the others for the activities carried out to achieve the annual yields and objectives set by the Minister for the management unit in question;
- to stipulate that all agreement holders who are authorized to harvest wood in a given management unit are jointly responsible for applying the management strategies and will be evaluated jointly, in particular on their forestry and environmental performance, when carrying out forest management activities.

2.3.4 Form and content of forest management plans

The provisions of the *Forest Act* concerning the number, form and content of the forest management plans to be submitted by the holders of timber supply and forest management agreements and forest management agreements have been amended.

It is proposed that:

- the general and five-year forest management plans should be combined and that the annual plan should be maintained.

A) The general forest management plan

By combining the general and five-year management plans, it will be easier for the general public and other interested parties to become involved in the plan preparation process and to be well informed on the objectives, nature and extent of the proposed work. The new general forest management plan must:

- contain a brief description of the management unit, situating it in the social and economic context;
- indicate the allowable annual cuts and forest yields calculated by the Minister, as well as the forest protection and development objectives set by him;
- describe the management strategies drawn up by the agreement holders, i.e. the work required to achieve the yields and the protection and development objectives set by the Minister;
- include a five-year implementation program for the strategies, stipulating the biophysical properties of the areas in which work will be carried out and the constraints to be overcome during logging and other forest management activities (e.g. steep slopes, white-tailed deer yards, access difficulties, stand vulnerability, the abundance of advance growth, etc.). This part of the general plan must also indicate the zones of particular interest to other forest users. Agreement holders will have to consult those other users so as to be able to propose to the Minister standards of forest management suitable for these particular zones and to establish a work schedule;
- indicate, on a map, the site of the activities proposed in the five-year program, and the sites of the main infrastructures that will be built;
- indicate the preventive methods and means of control the holders intend to apply to minimize the impact of the entomological and pathological problems likely to arise in the management unit;
- indicate the main infrastructures that the holders could build and the areas in which they could harvest timber in the five years following the term of the proposed plan;
- review the forest management activities carried out by the agreement holders since the beginning of the period covered by the plan now expiring. In the review, the holders must:
 - indicate the extent to which they have complied with their forest management strategies;

- give the results of the monitoring of forest management activities carried out in accordance with the *Forest Management Manual* to check the condition of advance growth and the yields achieved in each of the forest areas in the management unit;
- describe the main infrastructures built;
- summarize the knowledge acquired, in accordance with the Minister's request in his acceptance of their general plan;
- describe the decision-making and conflict resolution procedures to be used by the agreement holders during the term of the general plan when preparing and implementing annual management plans, in cases where several agreements apply to the management unit.

When approving the general plan, the Minister will give the agreement holders a list of the ecoforest survey data that they must obtain for the next review, and will set a deadline for this exercise.

If, due to differences of opinion, the agreement holders in a given management unit are unable to submit their general management plan to the Minister by the prescribed deadline, they will be required to submit a draft plan together with an explanatory document describing the points in dispute. After the necessary consultations, the Minister will decide on the final content of the plan, at the agreement holders' expense.

B) The annual management plan

It is also proposed to amend the content of the annual management plan, in particular to make it more flexible. Among other things, the annual plan must:

- describe the management activities to be carried out during the year, as part of the five-year program established in the general plan;
- indicate the nature and site of any infrastructures to be built;
- designate the agreement holders who will be responsible for each forest management activity;
- present the rules and methods governing the distribution of dues credits granted to the agreement holders in accordance with the Act;
- mention the purpose for which the harvested wood will be used.

The proposed silvicultural treatments must be justified by survey data, and the data in question must be attached to the annual plan so that the Minister can check them. Such data will be required from the second year following the coming into force of the amended Act.

The agreement holders will be able to modify their schedule of activities during the year, provided:

- any proposed new silvicultural treatment is justified by survey data;

- they comply with the management strategies described in the general plan and the five-year program;
- they comply with established harvesting levels;
- they comply with the schedule of operations and standards of forest management applicable to the zones of particular interest to other forest users.

If a proposed change to the annual plan is not consistent with the provisions of the general plan, the general plan will first have to be amended in accordance with the rules and procedures applicable to its initial preparation.

If the agreement holders do not submit their joint annual plan to the Minister within the time stipulated in the Act, they must indicate the date on which they intend to do so. The Minister will not issue a management permit before he has received and approved the annual plan.

The same rules will apply to forest management contract holders, who will also be required to prepare general and annual plans.

2.3.5 The participation of the general public and third parties in the plan preparation process

The best way of ensuring that forest management plans reflect the concerns of communities and forest users is to allow such communities and users to take part in the preparation process. Accordingly, it is proposed that the *Forest Act* be amended so as:

- To require the holders of timber supply and forest management agreements and forest management agreements to invite regional county municipalities, Native communities, outfitter operating permit holders, individuals or organizations that have entered into an agreement for the management of a ZEC, in accordance with the *Act respecting the conservation and development of wildlife*, and those organizing activities or offering services in a wildlife preserve, as well as individuals or organizations holding, in an area earmarked for forest production, a sugar bush management permit for maple syrup production purposes, in accordance with the *Forest Act*, to take part in the preparation of their general forest management plan. The invitation must be extended before the plan preparation process begins, since such participation is vital to allow for multiple forest use, to integrate activities in the forests and, eventually, to avoid disputes between the different forest users.

The agreement holders and other parties listed in the Act will be responsible for establishing the conditions for participation. The specific values and needs of the Native communities must always be taken into account.

- To indicate that the general management plan submitted to the Minister by the agreement holders must be accompanied by a report describing the participation of the individuals and organizations listed in the Act in the preparation of the plan. The report should also indicate the points on which the parties agreed and those that had still not been resolved when the plan was tabled. Copies will be distributed to everyone who took part in the plan preparation process, and will be available for consultation to any other interested person or organization during the public information and consultation period provided for in the Act.

Participation by the regional county municipalities and other individuals and organizations listed in the Act must not have the effect of delaying the filing of the plan that the agreement holders are required to submit pursuant to the *Forest Act*.

If a dispute between an agreement holder and a participant has not been resolved when the plan is submitted, it will be up to the Minister to settle the question, in light of the objectives set for the area concerned and after any consultations he deems necessary. The Minister can also call on the services of a conciliator, who cannot, however, intervene until after the end of the information and consultation period stipulated in the Act. The Minister will then approve the plan, with any modifications he decides to make, or reject it if he does not believe it will achieve the objectives set, or if he considers that agreement holders did not make a reasonable effort to secure the participation of the individuals and organizations listed in the Act.

The Minister will also be involved in the preparation of the general forest management plan, in accordance with conditions set in cooperation with the parties concerned, first because he wishes to facilitate compliance with the new legal requirements, and second because it is his responsibility to calculate allowable annual cuts and forest yields and to set forest protection and development objectives.

The procedure introduced to promote public participation in the analysis of the general plans submitted by agreement holders has been maintained, but it will be improved to become more attractive to the general public and others not directly associated with the plan preparation process. Documents will be written in less technical language, information and consultation sessions will be advertised more extensively, and the time allowed for conciliation will be doubled. Lastly, the Act will provide that all these provisions, adapted as required, will also apply to forest management agreement holders.



2.3.6 Increased yield

The volumes of wood available in the public forests have almost all been allocated, and in the case of the species most in demand, i.e. the softwoods, logging is practically at its maximum level, even in the private forests. Yet, some mill needs and some demands for new supplies are not being met. However, the current yield of Québec's public and private forests has not reached its full potential and other factors have to be considered, including the following:

- the areas given over to forest production will eventually be reduced to increase the number and size of protected areas;
- natural disturbances will inevitably continue to damage available volumes of wood;
- forest lands will be used increasingly for purposes other than timber production;
- new knowledge will continue to be acquired, possibly modifying forest management and sometimes causing timber supplies to be reduced.

It is therefore necessary to increase production in the public and private forests, in particular if the forest products industry is to continue to prosper. To achieve this, it is imperative that an increased yield policy be adopted, setting production objectives and creating favourable conditions for the work required. The Minister of Natural Resources intends to adopt such a policy by September 1, 2002, so that it can be taken into account by agreement and contract holders as they prepare their general management plans to be submitted on April 1, 2004, and also by the regional agencies for private forest development, as they update their protection and development plans.

In the meantime, the Minister intends to favour management projects aimed at increasing yields in certain forest areas. He will also take other steps, in particular with regard to the production of plants for reforestation, that will allow him to implement his policy.

It is also proposed that the *Forest Act* be amended:

- To define “increased yield” as an augmentation of the allowable annual cut obtained in the medium or longer term by intensifying forest management.
- To stipulate that the Minister may set a medium- and long-term increased yield objective for each management unit. Agreement and contract holders will be required to take this objective into account when preparing their forest management strategies and planning their work. In the private woodlots, it will be up to the regional agencies for private forest development to set the objective and have it approved by the government.

- To stipulate that silvicultural work carried out with a view to increasing production in the public forests may be accepted as payment of stumpage dues. The nature and value of admissible work will be established by regulation. In the case of the private woodlots, it will be up to the regional agencies for private forest development to select the activities that will receive financial support and establish scales for such support.

The additional volumes of wood obtained by intensifying silvicultural work in a given management unit or forest reserve will be the exclusive property of the government, in the same way as those obtained as a result of silvicultural work carried out to maintain the allowable annual cut. Sections 62 and 76 of the *Forest Act* will therefore be repealed. Volumes of wood produced in the private woodlots through more intensive forest management will obviously belong to the woodlot owners.

According to the hypotheses currently under consideration, it would be possible, every year, to intensify silvicultural work on forest areas totalling approximately 50,000 hectares with a view to increasing yields in the medium and longer terms. The main treatments would be reinforcement planting of natural regeneration, reforestation (conventional or with fast-growth species) and pre-commercial thinning. Such extensive work would cost around \$65 million per year and would create the equivalent of around 4,500 seasonal jobs or nearly 1,800 person-years of employment. It is estimated that the allowable annual cut would be increased by some 700,000 cubic metres after 25 years and by some 10 million cubic metres after 60 years, for a total gain of slightly over 22%. This gain could be used to implement various forest conservation or development policies.

In his new policy, the Minister of Natural Resources will stipulate the total amount of credits to be granted every year as funding for work aimed at increasing forest yields. He will also indicate how these credits will be divided among the regions and between the public and private forests. The criteria used to make the distribution will be the subject of consultations. The increased yield policy will encourage financial participation by the private sector, and will allow for the introduction of adapted management programs where necessary.

2.3.7 Integrated resource management

Most of the people who took part in the consultations on the updating of the forest system thought it was necessary to promote integrated forest resource management, particularly in areas rich in wildlife resources or located close to inhabited zones. As mentioned earlier, the holders of agreements and contracts in the public forests will be required to invite the regional county municipalities, Native communities, outfitter permit

holders, people entering into agreements for ZEC management, holders of a sugar bush management permit for maple syrup and timber production, and those organizing activities or offering services in a wildlife preserve to take part in the preparation of their general management plans. This approach will be exacting for all the parties concerned, but will greatly favour integrated forest resource management.

In some cases, it will be possible to go even further, to invite more forest users to take part in the integrated management process and, eventually, to adopt an ongoing, concerted approach. Because of the resulting multi-resource approach to planning, participants might want to apply rules other than those stipulated in the Act and regulations. Furthermore, integrated management generally involves a case-by-case approach that is not really compatible with a high level of regulatory and procedural standardization. It is therefore proposed that the *Act respecting the ministère des Ressources naturelles* be amended to promote integrated management initiatives and to allow for the implementation of management plans prepared within the framework of a consensus-based approach:

- by authorizing the creation of special integrated resource management programs in certain designated forests¹⁰.

2.3.8 Special wood salvage plans

Where large areas of forests are damaged by a natural disaster, the Minister has the power to draw up a special management plan to allow for the salvage of wood that still has some commercial value. The plan is implemented by the agreement holders with allocations in the damaged area, and takes priority over any other plan previously approved by the Minister. Such a plan is also prepared wherever wood needs to be salvaged to allow for the construction of hydro-electricity installations.

Currently, the special salvage plans drawn up by the Minister aim to salvage an average of no more than 30% of the wood going to waste. In reality, however, the agreement holders harvest only 66% of the volumes stipulated in the special plans, or 20% of the total wood going to waste. This situation does not allow the forests to be managed in the most effective way, and does not promote optimal timber use.

It is therefore proposed that the *Forest Act* be amended so as to increase the salvage rate for wood going to waste, by allowing the Minister:

- To require not only agreement holders in the management unit concerned, but also all other agreement holders that he deems in a position to do so, to take part in the salvage of wood going to waste following a natural disaster, where justified by the volumes to be salvaged; and, in the same circumstances, to authorize holders of wood

¹⁰ See subsection 2.5.1

processing plant operating permits to salvage some of the volumes covered by the special plan, even if they are not timber supply and forest management agreement holders. If a dispute arises when a special plan is implemented, the parties involved in the salvage of wood going to waste in a given management unit may have recourse to the conflict resolution process established in the general plan.

- To reduce, for the current year or any subsequent year, the volume of wood allocated to the holder of an annual management permit who refuses to participate in the salvage of wood going to waste, by a volume equal to that which the holder should have salvaged under the special plan.
- To authorize an agreement holder in a management unit in which the implementation of a special salvage plan has been completed to harvest all or part of the annual volume to which that holder is entitled in another management unit where the harvest was reduced and wood was consequently made available because one or more agreement holders were involved in the special plan. This measure will further secure mill supplies and will help reduce the impact of natural disasters on the allowable annual cuts of the damaged units.

The provision that allows the Minister to grant financial assistance to agreement holders who participate in the implementation of a special salvage plan will be maintained.

2.4 CONTROL OF FOREST MANAGEMENT ACTIVITIES

Before carrying out management work in the public forests, it is necessary to obtain an authorization or a management permit issued by the Minister of Natural Resources. During the work, the standards established in the Act and regulations, as well as those prescribed by the Minister of Natural Resources in accordance with the Act, must be met. These standards are designed to ensure that the forest cover is maintained and reconstituted, that all forest resources are protected, and that forest management activities are compatible with other forest uses.

All timber supply and forest management agreement holders must:

- carry out the silvicultural treatments required to achieve the annual yields set by the Minister for the forest areas covered by their agreements;
- carry out the forest management activities stipulated in the annual management plan approved by the Minister of Natural Resources;



- scale the wood they harvest, using one of the methods prescribed by regulation of the government¹¹;
- evaluate the silvicultural treatments carried out during the year, in qualitative and quantitative terms;
- ensure long-term monitoring of the areas they are required to restore to production, in accordance with the *Forest Management Manual* and the provisions of the *Regulation respecting standards of forest management for forests in the public domain*;
- implement a special salvage plan drawn up by the Minister, where necessary;
- submit an annual report of activities to the Minister.

It is proposed that the *Forest Act* be amended to stipulate:

- that forest management agreement holders have the same obligations as the timber supply and forest management agreement holders with regard to the application of management strategies and annual management plans, the scaling of harvested wood, the qualitative and quantitative evaluation of any silvicultural treatments carried out, the monitoring of areas to be restored to production, the implementation of special salvage plans prepared by the Minister and the production of annual activity reports;
- that forest management contract holders have the same obligations in the forest reserve or part of a forest reserve they are responsible for managing.

For his part, the Minister of Natural Resources exercises a number of controls designed to:

- ensure that everyone carrying out management work in a public forest holds a permit or authorization issued for that purpose;
- ensure that everyone who holds a permit or authorization complies with the standards of forest management applicable to their activities;
- require, by order, that any permit holder who contravenes current standards must correct the situation and agree to apply the legislative and regulatory provisions applicable to its activities, or suspend those activities;
- apply the recourses stipulated in the Act to punish any offences that may be committed;
- check whether an agreement holder actually implements the strategies stipulated in its general management plan, evaluate the impact of any breaches observed in the pursuit of the production objectives set, and prescribe the corrective measures required;

¹¹ This obligation applies to all management permit holders harvesting wood in the public forests.

- check whether a management permit holder actually scales the wood harvested in accordance with current standards, first to ensure that the stumpage dues owed are in fact being paid, and second to control the harvest;
- check whether the silvicultural treatments and other forest management activities accepted as payment of stumpage dues have actually been carried out;
- check whether the special salvage plans for wood going to waste have been implemented;
- check whether the information provided in the annual reports is complete and accurate.

The Minister adjusts these various controls to the human, budgetary and material resources at his disposal. However, as was shown in the assessment of the forest system, these resources have declined in recent years. In addition, some agreement holders do not systematically monitor their silvicultural treatments, even though the data gathered during the monitoring work are essential in deciding whether management objectives have been met and the allowable annual cut complied with. Such controls also appear to be increasingly vital, among other things because:

- the requirements concerning sustainable forest management are increasingly stringent, and the Minister must ensure that they are met;
- the number of forest management permit holders has grown over the years;
- the areas used for forest production have increased;
- forest management activities have increased steadily since 1986, due to an intensification of silvicultural work and the introduction of new programs such as the *Forest Resource Development Program*;
- multiple use of the forests and their resources is becoming more widespread.

It is therefore necessary to strengthen the means at the disposal of the Minister of Natural Resources to control forest management activities, to ensure that the Act and regulations are complied with and to check that agreement and contract holders have in fact implemented their forest management strategies. In short, the controls exercised in the field by the Minister must be tightened, and their objectives must be clarified. The Minister's power to investigate also needs to be broadened. Lastly, measures are also required to make transparency mandatory, to facilitate access to information and to discourage infringements of the Act and regulations.

2.4.1 Transparency in the activities of agreement and contract holders

Agreement and contract holders must inform the general public, the municipalities, the Native communities and all other forest users about their management work, the results obtained and the methods they use to implement the plans approved by the Minister for each management unit. Access to this information should be facilitated, and the holders should account publicly for their actions.

It is therefore proposed that the *Forest Act* be amended in order:

- to require agreement and contract holders to include, in their general management plans, a review of the strategies implemented and the forest management monitoring activities carried out in accordance with the *Forest Management Manual*, in order to ensure that cutting areas have been regenerated and the yields set for each management unit have been attained;
- to give the general public access to the annual management plans approved by the Minister as well as to the reports submitted by the individuals and organizations authorized to harvest wood in a public forest or to exercise another activity for which a report must be sent to the Minister. In this way, anyone who is interested will be able to obtain information on the operations carried out in a given sector.

2.4.2 Joint responsibility of agreement holders

All the agreement holders exercising their activities in a given management unit will be jointly responsible for preparing and implementing their shared forest management strategies. It is therefore proposed that the *Forest Act* be amended in order:

- to stipulate that all holders authorized to carry out work in a given management unit will be required to submit joint management plans, evaluations and annual management reports.

In short, these holders will be jointly responsible for the implementation of their joint management plans. They can divide the activities proposed in their annual management plan, among themselves, but they will be jointly responsible for the overall work done to achieve the annual yields and objectives set by the Minister for the management unit covered by their agreements. Accordingly, they will need to devise the necessary monitoring mechanisms to ensure that each and every one of them complies with the strategies and general plan approved by the Minister, and with the Act and regulations currently in force. Where applicable, an agreement holder in a given unit will be liable for any failure to apply the management strategies, even if another holder actually carried out the

work judged to be non-compliant by the Minister. In addition, the joint performance of the agreement holders in a given management unit will be considered for the purposes of reviewing allocated volumes, when the agreements are extended every five years.

2.4.3 Compliance with the *Regulation respecting standards of forest management for forests in the public domain*

The application of the *Regulation respecting standards of forest management for forests in the public domain* is one of the priorities of the Minister of Natural Resources, who remains exclusively responsible for the controls exercised in order to ensure compliance. The Minister has developed a method that will allow him to fulfil this responsibility effectively, but the human resources at his disposal will need to be increased. In addition, he intends to carry out more impromptu inspections and verifications in the field, so that he will be better able to identify offences, constitute files on the forestry and environmental performance of agreement and contract holders, prescribe appropriate corrective action and terminate activities that do not comply with the Act and regulations in force.

2.4.4 Monitoring of silvicultural work

Every year, agreement and contract holders will be required to provide the Minister with a qualitative and quantitative assessment on the silvicultural treatments applied, even if they are not admissible as payment of stumpage dues. They must also carry out longer-term monitoring of harvesting sites, to ensure that regeneration is adequate and that the objectives set by the Minister will be met. They must also draw up an inventory of the timber left in the harvesting areas.

It is therefore proposed that the *Forest Act* be amended:

- To stipulate that holders must comply with the obligations set out above, by applying the sampling methods identified in the *Instructions concerning the application of the Regulation respecting the value of silvicultural treatments admissible as payment of dues*, in the *Forest Management Manual*, and in the document entitled *Estimation des volumes touchés par les opérations de récolte*. These various methods are described in the document entitled *Méthodes d'échantillonnage pour les suivis des opérations forestières*.
- To stipulate that holders who, at the Minister's request, carry out silvicultural treatments in order to protect, develop or increase forest productivity are also required to evaluate the quality and scope of the work and to report thereon to the Minister.



- To stipulate that agreement and contract holders may apply methods other than those proposed by the Minister to evaluate their work, provided that such methods are at least as effective and that the Minister has given his authorization.

Holders must include the results of these evaluations in their annual management reports. The Minister of Natural Resources, for his part, will check the accuracy of the data and information in the reports more rigorously, and will assign additional resources to this activity.

To allow the Minister of Natural Resources either to obtain the resources needed for these additional controls or to contract out the task, it is proposed that the *Forest Act* be amended in order:

- To add the control of management activities to the list of activities financed out of the Forestry Fund. The financial contributions payable by timber supply and forest management agreement holders into the Fund will be adjusted accordingly.
- To require that forest management agreement and forest management contract holders also contribute to the Forestry Fund.

2.4.5 The annual management report

The content of the annual management report submitted by the holders of timber supply and forest management agreements, forest management agreements and forest management contracts must be clarified. In addition, it is proposed that the *Forest Act* be amended in order to stipulate that the report must be approved by a forestry engineer. Among other things, the annual management report must:

- describe the forest management activities carried out by the holder during the year, the volumes of wood harvested and their end use;
- include a qualitative and quantitative evaluation of the silvicultural treatments applied to achieve the forest yields and the protection and development objectives set by the Minister;
- indicate the progress made in implementing the five-year program included in the general forest management plan;
- describe the state of the sites under management;
- include the results of the inventory of timber left on harvesting sites;
- if the management standards substituted for those provided in the regulation have not produced the anticipated effects, describe the results of the remedial program implemented in accordance with the Act;
- where applicable, describe its participation in the implementation of any special salvage plan drawn up by the Minister.

- mention the results of work carried out to restore disturbed areas to production;

Where several agreements apply to the same management unit, the holders must submit a single jointly-prepared management report to the Minister.

2.5 SPECIAL STANDARDS

The standards and rules enacted by the government are often rigid, and as a result they can sometimes hinder individual, community and business initiatives or prove unsuitable for local conditions or specific types of projects. In some cases they may actually be prejudicial to the pursuit of the government's objectives, and may not allow for the desired level of consistency in public management. Their rigidity can occasionally make it difficult to harmonize forest management activities with the activities of other forest users.

The *Forest Act* already recognizes that it may sometimes be necessary to derogate from current standards. For example, sections 25.2 and 25.3 allow the Minister of Natural Resources to prescribe standards of forest management that differ from those established by regulation where the latter do not provide proper protection for all the resources in a given environment, or where they are inconsistent with the very nature of a given project. Derogations are also possible where the current standards would prevent taking into account the results of public consultations on management plans or fully benefiting from the willingness to cooperate resulting from the consultations.

Other standards must be adapted if forest management is to become more consistent with government policies, in particular with regard to integrated resource management, increased yields, regional development, conservation of biodiversity, and the promotion of local initiatives as well as Native affairs.

2.5.1 Adapted management

To give the Minister the leeway he needs to adapt forest management to specific situations, it is proposed that the *Act respecting the ministère des Ressources naturelles* be amended:

- to allow the Minister, subject to government approval, to develop and implement special programs aimed at protecting public forest resources or developing them in a way that promotes regional development or the implementation of a government policy;
- to indicate that, within such programs, the Minister will exercise the powers and responsibilities entrusted to him by the *Forest Act* and its related regulations;

- to stipulate that the government may also establish rules that differ from those established in the Act and current regulations, to allow for the implementation of a special program;
- to stipulate that, within a given program, the Minister may adopt any measures he believes will be conducive to sustainable forest management, including the granting of rights other than those stipulated in the *Forest Act*, provided this would not limit the exercise of existing rights in the area in question.

The *Five-Year Report on the State of Québec's Forests* that the Minister is required to submit to the National Assembly will describe the results of such programs.

It is also proposed that the *Forest Act* be amended:

- to authorize the Minister of Natural Resources, at the request of a Native community or on his own initiative after consultation with the community in question, to impose management standards that differ from those established in the regulations, if the latter do not allow for adequate consideration of the activities traditionally carried out by community members for subsistence, ritual or social purposes. The government may also adapt its regulations so that such activities be better taken into account.

2.5.2 Resource management at the local level

The importance ascribed to forest resource management at the local level is dependent to a large extent on the concerns of local people and the challenges they face. However, social and economic development varies enormously from one rural community to the next. Besides, there has been a marked decline in some rural communities, due in part to recent changes in the methods used to harvest and process certain natural resources.

Most rural and Native communities will have to broaden their economic base in the future, to reduce their dependency and hence their vulnerability to the changes currently sweeping through the economic sectors related to the harvesting and the primary and secondary processing of natural resources in general and forest resources in particular. However, the forests continue to be the main, if not the only, source of activity and employment in many municipalities with fewer than 5,000 inhabitants, and municipalities with fewer than 1,000 inhabitants are even more dependent upon them. The rural communities therefore have no choice but to rely on natural resources for their prosperity, and given the strategic importance of those resources, it is hardly surprising that local populations, elected representatives and other community organizations

are not only asking to be more closely involved in their management, but are also claiming a larger share of the benefits derived from forest development.

It is therefore important to find new ways of managing the forests that will provide greater and more sustainable benefits for nearby communities. The solutions to this problem appear increasingly to involve the creation of close partnerships between the various public and private stakeholders. In the last few years, significant efforts have been made to involve the regions and local communities in forest management, including:

- representation of local and regional county municipalities on the regional agencies for private forest development;
- participation of regional boards and municipalities in the management of the *Forest Resource Development Program*;
- pilot experiments in which responsibility for the management of intramunicipal forest reserves is delegated to regional county municipalities.

Adapted management programs will strengthen these partnerships by allowing forest management standards to be relaxed where necessary, or to be adapted to suit the specific conditions prevailing in a given area or region¹².

It is also proposed that the Minister be allowed:

- to enter into agreements with municipalities or Native communities in order to delegate:
 - the management of forest reserves;
 - the granting of forest management contracts;
 - the issuing of forest management permits, except those required by the holders of timber supply and forest management agreements or those issued for mining or public utility purposes;
 - the granting of permits and authorizations for the construction of forest roads.

A regional county municipality, local municipality or Native community that signs an agreement with the Minister concerning the delegation of forest reserve management or the granting of forest management permits must fulfill the Minister's responsibilities to the extent provided by the Act and the related regulations, and must also comply with the terms of its agreement.

In accordance with the provisions of the *Act respecting the ministère des Ressources naturelles*¹³, delegation of these responsibilities will require the adoption of an adapted management program. The Act will allow the Minister to set rules that differ from those stipulated in the *Forest Act* and related regulations, and will allow the assignee to set

¹² See section 2.5.1

¹³ See section 2.5.1

the management rules it needs to fulfill its responsibilities more easily, although such rules must first be approved by the Minister.

Municipal legislation will be amended to allow regional county municipalities and local municipalities to take part in an adapted program and to accept any responsibilities delegated to them. If a provision of the Act is violated, they will also be empowered to exercise the recourses stipulated by law, for and on behalf of the Minister.

2.6 ENVIRONMENTAL PROTECTION

The 1990s marked a major turning point in world awareness of environmental issues. Many people consider the Earth Summit (held in Rio in 1992) and the ensuing actions, including the signature of the *Convention on Biological Diversity* and the *Convention on Climate Change*, to be the first commitments made to sustainable development by the international community.

In the field of forestry, pressure from the scientific community, the general public and various international bodies forced governments and businesses to choose the path of sustainable development. This choice had an impact on the environmental policies and legislation of many countries, as well as on the commercial strategies of public and private businesses.

In Québec, new knowledge and greater environmental awareness were factors in the adoption of the *Forest Act*, which triggered a number of significant changes in the forest management process, including the adoption of the *Regulation respecting standards of forest management for forests in the public domain* and the *Forest Protection Strategy*.

The regulation contains, among other things, provisions concerning the protection of water resources, wildlife habitats and advance growth. It was revised for the first time in 1996, when several of its provisions were strengthened, including those relating to cutting areas and the protection of lakes and watercourses. The *Forest Protection Strategy*, adopted in 1994, after extensive public consultations, promotes respect for the biophysical components of the forests, maintenance of yields, the sustainability of socio-economic activities, the development and harmonious use of the many resources offered by the forests and the elimination of chemical pesticide use. It also encourages preventive silviculture to protect the forests from insects, diseases and competing vegetation.

In 1996, the Department began to assess the effectiveness of the *Regulation respecting standards of forest management for forests in the public domain*, with a view to making certain corrections or improvements if necessary. It is currently assessing the impact of the *Forest Protection Strategy*, after five years of application, and the results of this process will be made public.



As we said earlier, the *Forest Act* was amended in 1996 to stipulate that the forests constitute a common heritage and that it is the Minister's duty to promote their sustainable development. At the same time, six criteria were included in the Act to measure the progress made in this respect. Four of these criteria are based on environmental considerations, namely the preservation of biological diversity, the maintenance and improvement of the condition and productivity of forest ecosystems, the conservation of soil and water resources and the maintenance of the contribution of forest ecosystems to global ecological cycles.

The Québec government has already made certain commitments concerning the preservation of biological diversity and protected areas. It has adhered to the *International Convention on Biodiversity* and has developed a strategy to implement it. The ministère des Ressources naturelles, for its part, has published a report on biodiversity in Québec's forests. It is also studying the possible impacts of forest management practices on biodiversity and is attempting to develop better strategies, in particular for the creation of forest mosaics that are more socially acceptable and better adapted to the needs of wildlife. Moreover, the Québec government is currently preparing a development strategy for protected areas, which should lead to an expansion of the present network. The ministère des Ressources naturelles intends to play a significant role in the implementation of this new strategy; it is also involved in drawing up a plan of action aimed at achieving the objectives set in the *Kyoto Protocol* and complying with the *International Convention on Climate Change*. At the same time, the Department has signed an administrative agreement with the other government departments concerned, in order to protect threatened and vulnerable species in the forest environment.

In fact, although the coming into force of the present forest system marked a definite turning point in terms of forest protection, more effort is still required to protect ecosystems, species and diversity, and the current regulations have to be corrected as their environmental deficiencies become apparent.

2.6.1 Exceptional forest ecosystems

Some forest ecosystems must be protected because they are exceptionally important in terms of biological diversity, in particular because of their rarity and their age. Accordingly, it is proposed that the *Forest Act* be amended:

- To allow the Minister of Natural Resources to classify certain public forest areas as "exceptional forest ecosystems", in order to preserve them. These exceptional forest ecosystems will complete the network of protected areas.

- To stipulate that the Minister must obtain the agreement of the Minister of the Environment and the Minister responsible for Wildlife and Parks for any proposal to classify an area as an exceptional forest ecosystem.
- To state that the Minister must also consult the municipalities, urban communities and Native communities concerned before classifying an area as an exceptional forest ecosystem.
- To stipulate that the Minister must give the holders of mining rights, forest management permits, timber supply and forest management agreements, forest management agreements and forest management contracts the opportunity to state their views on any classification proposal that is likely to have an impact on their activities.
- To provide that the Minister may change or cancel timber allocations already granted, in order to protect an exceptional forest ecosystem. Anyone who has carried out forest management activities in the areas in question, pursuant to a plan approved by the Minister, will be compensated fairly if the activities have not been credited as payment of stumpage dues.
- To allow the Minister, in accordance with the rules applicable to the classification, to extend the boundaries of an exceptional forest ecosystem, or to declassify all or part of it if the reasons for its classification no longer exist.
- To stipulate that forest management activities are prohibited in all exceptional forest ecosystems, except where authorized by the Minister after consultation with the Minister of the Environment and the Minister responsible for Wildlife and Parks. However, such activities must not threaten the biological diversity of the site in question, nor must they damage the features that originally justified its classification as an exceptional forest ecosystem.
- To stipulate that the fines provided for violation of a provision of the Act or its regulations will be doubled if the violation occurs in an exceptional forest ecosystem, first because it is obviously more serious in such cases, and second because the offender may have caused irreparable prejudice to society.

The *Mining Act* will also be amended so that the Minister can subject the exercise of a mineral right in an exceptional forest ecosystem to certain conditions in order to ensure that the ecosystem is preserved, or order the holder to cease its work and enter into an agreement renouncing the right, or even expropriate the right in accordance with the *Expropriation Act* if he believes its exercise may be harmful to an exceptional forest ecosystem. The *Forest Act* will provide for compensation to be paid to the holders of such rights.

The provisions concerning the classification of exceptional forest ecosystems will complete existing legislation with the same objectives. The Minister of Natural Resources will also promote the conservation of exceptional forest ecosystems located on private land, by contributing both financially and technically to the implementation of measures adopted for this specific purpose by the regional agencies for private forest development.

2.6.2 Northern environments

Over the years forestry operations have extended steadily northwards, due in part to an increased demand for wood products and a decline in available timber volumes throughout North America. Although northern ecosystems can be managed in a sustainable way, the specific biophysical features and climatic conditions affecting forest growth and renewal in Northern areas must be taken into account.

The Minister of Natural Resources therefore intends to revise the provisions applicable to the northern portion of southern Québec, between latitudes 51° 00' and 52° 30'. This area contains a wide range of physical environments distinguished, among other things, by the nature and depth of their surface deposits, their altitude and their relief. It is therefore important that forest management work should be adapted in consequence.

Accordingly, it is proposed that the *Forest Act* be amended:

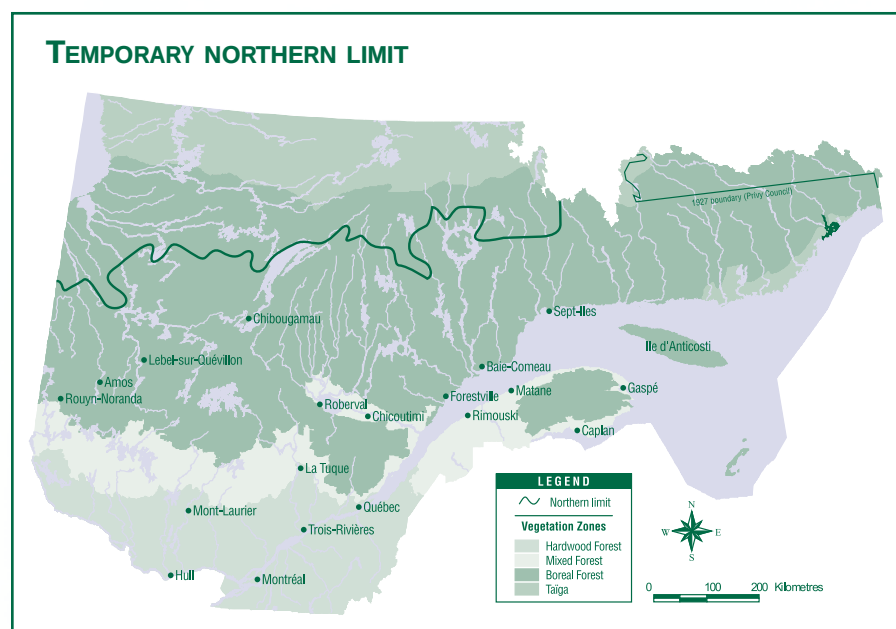
- To allow the Minister to set a northern limit beyond which all forest management activities carried out with a view to supplying wood processing plants will be prohibited. The Minister of Natural Resources will set the northern limit for allocations by September 2002, and in the meantime will give interested parties and the holders of logging rights in northern areas an opportunity to state their views on this zoning proposal and on the forestry practices that could be authorized in such areas without compromising their biodiversity.

No new agreements will be granted north of this limit. Existing agreements will be revised and brought into line with the new limit, and as far as possible the owners of mills affected by the change will be offered other supply possibilities. The only forest management activities allowed north of the new limit will be those carried out with a view to protecting the forest or meeting the needs of established local communities.

A provisional limit will be set in the short term, beyond which new timber allocations, increases in existing allocations and extensions of existing common areas will be prohibited.

South of the northern limit, the Minister may continue to allocate volumes of wood for the supply of processing plants. However, the phenomenon of recurrent fires will carry more weight in the calculation

of the allowable annual cut, and remedial action will be indicated in the *Forest Management Manual*. Forest management activities will be allowed to continue on the more productive sites, based on strategies adapted to the specific features of the area. Lastly, the Minister will prescribe the standards required to protect fragile environments in Northern areas.



2.6.3 The size and distribution of cutting areas

One of the Minister's aims is to ensure that more space is left between cutting areas. The maximum size of single block cutting areas, set at 250 hectares when the *Regulation respecting standards of forest management for forests in the public domain* was first adopted, in 1989, was significantly reduced in 1995, with the adoption of the *Forest Protection Strategy* – by 40% in the northern portion of Québec (from 250 ha to 150 ha), by 60% in the centre of the province (from 250 ha to 100 ha) and by 80% in the southern portion (from 250 ha to 50 ha).

In the common areas, attempts are made not only to protect natural regeneration in order to speed up the process of restoring cutting areas to production, but also to maintain stands at different stages of development in order to ensure sustained timber yields and help preserve biological diversity. However, in the territorial reference units, which vary in size from 50 km² to 500 km², strict compliance with the *Regulation respecting standards of forest management for forests in the public domain* does not necessarily ensure adequate spacing of cutting areas. If the current minimum standards are strictly enforced, the resulting forest mosaic differs in some sectors from the type of mosaic that

would be created by natural disturbances. Moreover, the current standards do not give sufficient weight to the concerns of other forest users, and do not sufficiently promote multiple forest use.



The ministère des Ressources naturelles therefore intends to adopt new strategies for the distribution of cutting areas, in order to improve this situation. The new strategies will have to be included in the silvicultural approaches developed to ensure the maintenance of biological diversity, and must also be socially acceptable as well as economically realistic.

A) Immediate minimum requirements

In the short term, it is proposed that the *Regulation respecting standards of forest management for forests in the public domain* be amended to include rules that will minimize the break-up of wildlife habitats in the territorial reference units, by:

- maintaining the obligation to preserve, at all times, at least 30% of forest stands measuring seven metres or more in height;
- limiting the maximum size of areas in which cutting with protection of regeneration and soils can be carried out over a twenty-year period to 40% of the forest area in the territorial reference unit;
- requiring that the holders of forest management agreements and contracts should maintain, between two cutting areas, wooded strips that are equivalent in size to the largest of those areas, and at least 200 metres wide.

In addition, agreement and contract holders will be permitted to test other silvicultural approaches aimed at maintaining biodiversity. The Act will allow them to adapt their operations to suit the ecological features and operational constraints of a given area. However, if the Minister observes that an alternative approach applied by a holder does not provide the required level of protection, he may, at any time, demand that the holder comply with the standards currently in force.

B) Inclusion of biodiversity maintenance objectives in management strategies

The application of the new proposed forest management standards in territorial reference units will promote more integrated resource management, the conservation of a wider range of wildlife habitats and multiple-use of the forest environment. However, it will not necessarily guarantee the maintenance of biological diversity in all areas. Researchers in Québec and elsewhere are now proposing that management strategies should be based on natural disturbance systems, so that they would be more effective at maintaining biodiversity. In their view, if management

activities create forest mosaics that are consistent with historical variations in terms of plant composition, stand structure and spatial organization, living organisms will find conditions better suited to their needs and will thus be able to survive, reproduce and continue to play their respective roles in the ecosystems. Future management strategies must therefore consider not only the spatial and temporal distribution of cutting areas, but also the type of silvicultural treatments required, including those designed to reproduce stand structures or to maintain a certain percentage of old forests, for example.

Québec's forest ecosystems are also highly complex and vary from one region to the next. As a result, the measures aimed at maintaining biodiversity must be adjusted to suit the ecological attributes of each particular area. For example, the forest mosaic in a sector damaged by spruce budworm will not be the same as that in a sector damaged by fire. Strategies and management techniques should reflect these differences.

To enable the Minister to establish and implement a global approach to biodiversity, it is proposed:

- to amend the *Forest Act* in order to allow him to set specific objectives for certain forest areas, and to require agreement and contract holders to take those objectives into account when preparing their general forest management plans;
- to establish the criteria he will use as a basis for assessing and approving the plans;
- to implement this approach in time for the preparation of the new general plans that will be submitted in 2004.

2.6.4 Protection defined in terms of results

Government management must become much more results-oriented, and the individuals and organizations concerned must be given greater leeway in selecting the methods they need to achieve those results. Such an approach, in addition to promoting innovation, could also give more weight to local features and the specific needs of certain groups.

The Minister of Natural Resources therefore intends to revise the *Regulation respecting standards of forest management for forests in the public domain* and reformulate it as a series of objectives. If this proves to be impossible for certain provisions, the underlying objectives will at least be mentioned. The revision should allow the individuals and organizations concerned to select the most effective protection measures for their circumstances.

However, this new flexibility must be combined with a certain amount of caution if the forests are to continue to receive the best possible

protection, and the new measures must be introduced gradually, since we do not yet know all the impact management activities have on the forests. Performance indicators must also be developed, since they are essential to verify the extent to which the protection objectives have been achieved.

This more flexible approach to management raises a number of difficulties, and obviously has its limitations:

- practices with harmful effects must be prohibited, and those that are beneficial must be encouraged;
- mechanisms must be introduced to check whether or not protection objectives have been achieved, but it will first be necessary to estimate the cost involved;
- if the objectives are not met, it may be much more difficult to prove that somebody is at fault than it is to prove that a given standard has not been applied.

Despite the foregoing, the *Forest Act* must be relaxed:

- To allow agreement and contract holders, in their general management plans, to propose measures that differ from those prescribed to protect the forest as a whole or one of its resources. However, holders must clearly indicate the standards they will be replacing, and must show that their own standards will offer a level of protection at least equal to that provided by the regulation. They must also state the results they expect to achieve, develop indicators of those results, establish a monitoring schedule and describe the monitoring mechanisms to be applied.
- To allow the Minister of Natural Resources, after consultation with any other ministers concerned, to authorize an agreement or contract holder to implement its own protection measures. If the Minister observes that the holder has not obtained the anticipated results, he may order it to return to the standards currently in force and apply any remedial measures that may be required, at its own expense.
- To stipulate that an agreement or contract holder adopting protection measures other than those provided for in the Act or the regulations will be liable for the penalties stipulated by the legislator.

2.6.5 Environmental monitoring

In 1996, with the aim of ensuring continuous improvement, the ministère des Ressources naturelles began to assess the effectiveness of the provisions of the *Regulation respecting standards of forest management for forests in the public domain*, together with the impacts

of forestry practices and strategies on wildlife habitats and some components of the forest environment, among other things. It is also carrying out other environmental monitoring work, in particular to assess the impact of atmospheric pollutants and climate change on forest ecosystems. It intends to continue and even intensify this work, so as to improve the regulation and hence the protection of our forests and the resources they contain.

The Department also intends, periodically, to examine the extent to which the objectives of the forest system have been achieved and the principles of sustainable development upheld.

The process of preparing sustainable development indicators is going well, although their validity and effectiveness will have to be assessed before they are adopted – in other words, it will be necessary to ensure that they actually measure the changes, at a reasonable cost.

2.7 PENALTIES

Some of the penalties provided for in the Act do not appear to be sufficiently dissuasive, and are also difficult to apply. Others are simply disproportionate, given the profits that offenders are able to make from infringements of the Act. This latter deficiency has led to a high rate of repeat offences.

It is therefore proposed that the *Forest Act* be amended:

- To increase fines to a level that reflects the true value of the wood harvested.
- To allow for the imposition of fines based on volume or area, rather than on the number of trees cut or left to waste on the logging site, as is currently the case. At the present time, the unauthorized volume or area has to be converted into a number of trees, and the results almost always trigger objections from offenders. The proposed amendment will make it easier to document offences and present cases to the court. For example, the fine for logging without a permit will be based on the number of trees cut, whereas that for excessive logging will be based on volume, although it could also be calculated from the areas logged where an offender has carried out logging operations outside the sectors identified in its permit.
- To stipulate that the offender must, wherever possible, restore to production all areas in which an offence has been committed.
- To impose administrative penalties on offenders, and especially repeat offenders, including reductions in the volumes of wood they are authorized to harvest under their annual permits, for example.

- To provide for compensatory work.
- To stipulate that fines will be doubled if the offence is committed in an exceptional forest ecosystem.
- To impose penalties for the illegal harvesting or collection of branches, logging waste, bushes and tall shrubs for commercial purposes.
- To impose penalties on management permit holders who produce false declarations.
- To introduce the notion of second or subsequent offence for the infringements stipulated in the Act.
- To impose penalties on the directors of companies that are involved in or encourage their employees to commit illegal acts.
- To simplify the rules applicable to the sale and confiscation of wood seized during inspections or searches.

Furthermore, the Department will publish judgments relating to offences.

2.8 FOREST MANAGEMENT FUNDING

To strengthen the forest planning process, intensify the control and monitoring of the agreement and contract holders' activities and give the Minister more budgetary and financial leeway, it is proposed that the purposes of the Forestry Fund be modified:

- by adding the activities carried out by the Minister of Natural Resources in order to apply the *Forest Act*, the *Act respecting the ministère des Ressources naturelles* and any other legislative provisions with an impact on forest management to the list of activities already financed by the Fund (seedling production, forest surveys and forestry research);
- to stipulate that the contribution payable by agreement and contract holders must be used not only to finance seedling production, forestry research and forest surveys, but also to pay for all activities of the Minister of Natural Resources related to forest management and development, including the preparation and approval of forest management plans, the issuing of management permits, monitoring and control of forest management activities, the application of penalties, etc.

The contributions payable by agreement and contract holders to the Forestry will be adjusted accordingly.

CONCLUSION

Most of the proposed changes to the forest system will come into force when the Act is adopted. However, some provisions have been added to facilitate the implementation of the changes, since it is necessary to take into account the management plans already approved by the Minister, which will remain valid until their expiry dates. Accordingly, the bill contains provisions detailing the rules applicable during the transitional period, which will end with the adoption of the new general plans, in the year 2005. For example:

- The Minister may grant forest management agreements or temporary logging permits as soon as the Act comes into force. However, their holders will be required to integrate their activities with those of the other agreement holders in the common area in question.
- Regional county municipalities, Native communities, holders of outfitting permits, individuals and organizations who, pursuant to the *Act respecting the conservation and development of wildlife*, have entered into an agreement for the management of a wildlife management area or who organize activities or offer services in a wildlife preserve, and the holders of sugar bush management permits for maple syrup production purposes in a forest production area, must be involved in the preparation and modification of the five-year forest management plans to be submitted by agreement holders, as well as in any modifications to the general forest management plans.
- Provisions will be included to stipulate that agreement and contract holders must prepare their general management plans for submission on April 1, 2004, based on the management unit boundaries established by the Minister on September 1, 2002, and in compliance with the rules concerning the participation of regional county municipalities, Native communities and the other individuals and organizations listed in the Act in the plan preparation process.
- Provisions will be included to allow for modifications of the area to which an agreement applies from the time the Act comes into force, to take into account the classification of an area as an exceptional forest ecosystem or the issuing of a sugar bush management permit for maple syrup production purposes, among other things.
- The requirement to include the forest survey data needed to determine the relevance of silvicultural treatments proposed by agreement and contract holders when they submit their annual management plans will take effect one year after the Act comes into force.
- The new criteria proposed for the revision of allocated volumes when extending agreements will be applicable from the time the agreements are actually extended, a task scheduled for the year 2005.
- The provisions concerning the Forestry Fund will take effect on April 1, 2001.