

A new system of tenure for Quebec forests

by André Duchesne, Forest Engineer, winner of the 2007 edition

This essay aims to set out a concept on changes to tenure systems in Quebec. As the concept is further refined, it can make the forest industry more competitive. It offers solutions to long-standing conflicts over how public forests are used and would decentralize land use decisions. It would also confer more responsibility on forest professionals and reassure Quebecers that their forest resources are secure for a long time to come.

A flaw in the current system

For more than a century, ever since the forest timber limit system came into use, one unchanging characteristic in Quebec forest management is that decisions on who will have the privilege of harvesting timber to feed their mills, and even the price they will have to pay for this privilege, have remained with the minister responsible for forestry.

The current forestry system is set by the *Forest Act*. This provincial law gives the minister of natural resources and wildlife a mandate to allocate harvesting rights in public forests on the express condition that total allocated rights do not exceed the "annual allowable cut." This represents the maximum annual volume of wood that can be cut in perpetuity in a given forest area without reducing production capacity. Almost every day, the minister receives new allocation requests intended to maintain existing jobs or create new ones.

Calculating the annual allowable cut is a complex exercise, based on numerous hypotheses and highly technical data, conducted by the chief forester of Quebec. The position of chief forester was created last year and includes a mandate for the annual allowable cut to be calculated on an independent basis.

Prior to this, ministers had to show great political denial and an iron will to resist the temptation of asking their senior officials to use more optimistic hypotheses to arrive at higher figures for annual allowable cut. This ploy would enable them to acquiesce to specific requests and help them look like job creation heroes. Any hesitancy would lead to accusations that they were blocking economic development, as occurred in Gaspésie during the last election campaign. Despite the recent improvement, the issue is far from settled: the minister still decides which mills will have access to wood from public forests.

Heading for a solution

The change most likely on its own to inject a solid dose of vitality into an industry that is increasingly unable to meet international competition consists of breaking the traditional link between a processing plant and its assigned supply zone as currently set out in the law. Each mill would then have to look to the market for the timber it needed to operate. Timber would be produced by a forest management industry, parts of which would already exist, thanks to establishment of a new system of tenure that would gradually replace the current timber supply and forest management agreements.

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This new system of tenure would consist of renewable contacts that would work as follows:

1. The minister demarcates a sufficiently large territory to allow for efficient management and economic operation using modern tools and techniques.
2. The minister sets the volume of timber and wildlife stocks for this territory.
3. The minister awards a renewable five-year lease for this territory to a qualified entity that offers the highest lease price.
4. A qualified entity is an individual or group of individuals formed into a company or cooperative, independent of any timber processing firm, willing to fulfil an integrated forest resource management plan and having access to sufficient financial assets.
5. The qualified entity that presents the highest bid must provide to the minister, prior to the signing of the lease, a performance guarantee that would compensate the minister for any damage caused to the territory's resources if the minister terminates the contract for cause or if the leaseholder attempts to evade its obligations in any way.
6. The leaseholder has absolute latitude in the harvesting process and in the silviculture and wildlife management it conducts on the territory.
7. There is a strict rule the leaseholder must observe: timber and wildlife stocks must in no case decline on the territory. Exceptions are allowed only for natural catastrophes such as forest fires and must go to expert arbitration.

8. The minister may conduct an inventory of stocks at any time and revoke the lease with expenses if it is found that stocks have declined.

9. The leaseholder must also comply with the *Regulation respecting standards of forest management for forests in the public domain*. Rules allowing infringements with approval of the local populace and users are modified, however, with decisions on such infringements being made on a regional basis.

10. Timber that is harvested is sold on the free market. The leaseholder must indicate to the minister the names of buyers, the volume delivered to each client and the price agreed to, not including delivery. No condition in a sales contract may tend to create a link between a processing plant and the territory.

11. Wildlife resources are offered to the public directly by the leaseholder or in collaboration with an outfitting operation or a wildlife management area established on the territory.

12. Upon expiry of the lease, a leaseholder that has met its obligations to the minister has priority over any new bidder making a lease offer not exceeding its own by more than 10%.

The advantages of this system of tenure

Although this new form of tenure fits naturally with changes in tenure beginning with the timber limit system and continuing with timber supply and forest management agreements or forest management contracts, it must not be instituted without safeguards and careful preparation. It would be totally unacceptable, for instance, for the minister simply to revoke existing contracts to create the space needed to institute new contracts.

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On the other hand, an immediate requirement could be set for any plant closing to lead to automatic termination of the timber supply and forest management agreement as well as to bidding for a lease under the new system of tenure.

The predictable advantages of this new approach are numerous and substantial:

1. *Putting a market between timber production and the mill tends to depoliticize supply.*

Allocating supply by ministerial decision is peculiar to Quebec and the other Canadian provinces. This phenomenon results from Canada's high proportion of public forest land. Elsewhere in the western world, except for some cases where a mill owns the land that provides it with much of its supply, timber is purchased on the market. In Quebec, when deciding on the volume to be allocated to a mill, the minister must juggle with respect of the annual allowable cut, jobs, industrial investment, and income from cutting rights. Except in rare instances, the minister is held captive by previous allocations. He or she cannot withdraw a mill's allocation even if a new proposal is made that obviously generates greater benefits for society. This situation comes nowhere close to producing optimal use of resources.

2. *The most competitive mills are those with the greatest security of supply.*

Mills with above-average profit margins are able to devote part of this margin to the purchase of timber. If necessary, they can take supply away from less competitive mills simply by offering a higher price for timber. Managers thus have an interest in investing to

maintain their mills' competitiveness, or they will be forced to close their less profitable installations quickly for lack of supply. The result is a higher-performing industry, smaller but far less dependent on government assistance in getting through difficult periods.

3. *Replacing the calculation of annual allowable cut with auditing of stocks reassures the populace of a long life for the forest.*

The large number of hypotheses on which the calculation of annual allowable cut is based and the complexity of this calculation make it nearly impossible to achieve consensus among experts in the field. As a result, it is utopian to hope for public confidence in this calculation. Despite the integrity and transparency of the chief forester, the results of these complex calculations have been subject to criticism. In contrast, repeated audits of the volumes of trees left standing rely on relatively simple statistical notions and require the continual on-site presence of auditors whose work is visible and reassuring.

4. *Greater value is attached to the work of forest engineers who operate on site.*

Instead of energy being devoted to convincing a civil servant in a Quebec City office of the soundness of a forest management strategy that is being proposed, a forest engineer would enjoy greater latitude in raising the productivity of woodlands under his or her responsibility. Intimate knowledge of the land would enable the engineer to get the most out of the available information without his or her imagination being overcome by rules that cannot take adequate account of each particular situation.

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5. *The work of silviculturists can finally be recognized for what it is worth.*

Stable management units, aimed at integrated management of all forest resources, require calling upon qualified silviculturists and recognize the quality and complexity of their work. This complexity is at least equal to the labour performed by industrial workers, who at present are much better paid due to historical circumstances. Adequate pay tends to reduce labour shortages in the woods.

6. *This system of tenure tends to give more responsibility to regional decision-makers.*

Instead of begging for government support for regional projects, forcing the central government to choose between them, the regions get new tools that enable them to vaunt their advantages to business – advantages that will come largely under their control.

7. *The existence of a market, small at first but growing just as quickly as the transition to the new system of tenure can occur, has the effect of undoing the American strategy.*

The U.S. forest industry accuses governments in Canada of subsidizing the industry here based on the fact that ministers handle timber allocations, set the royalties owed to government, and dictate the conditions of forest operations. The higher the proportion of supply that mills acquire on the market, the less credible this strategy will be and the lower

the chances that access to the U.S. market will again be curbed.

8. *The existence of a market for wood from public forests helps validate the price of wood from private forests, largely governed by decisions issued by the Régie des marchés agricoles et alimentaires (Agriculture and Food Markets Board).*

The Board has long struggled to show the impartiality intrinsic to its arbitration mandate, due in particular to the absence of reference points for timber prices. This perpetuates disputes that pit producers who have joined to form wood producers' syndicates against industrial purchasers. It also weakens the established process for determining cutting rights in public forests, which extrapolates the value of these rights based on the very small volumes that are traded freely, adjusted in a complex way to take account of operating conditions.

9. *The political motivation of rescuing mills in financial distress with the aim of preserving jobs undergoes a complete change.*

Since the minister is no longer involved in supplying wood to mills, he or she has far more room to manoeuvre with respect to weak players. Pressure to intervene is reduced, and the government can focus its efforts on assistance to workers who wind up unemployed without necessarily having to provide artificial sustenance to mills with uncertain or improbable chances of achieving financial health.



The George Petty Entrepreneurial Idea Prize aims at recognizing and rewarding original and innovative solutions which foster the prosperity and well-being of our society. The Montreal Economic Institute is proud to launch this essay contest in memory of one of the most dynamic Montreal entrepreneur of its generation.

George S. Petty (1934-2006) founded and led several businesses in the forest products industry, including Tembec and the former Repap Enterprises. He also served as chairman of the Canadian Pulp and Paper Association, endowed chairs at McGill and Bishop's universities, received honorary doctorates from the University of New Brunswick and Bishop's, and was a Member of the Order of Canada.

With this contest, we wish to acknowledge the contribution of Mr. Petty to the economic and intellectual development of Quebec. The topic of this first edition was "What should be done to enable the forest products industry to prosper?".