Implementation of the 2019 Impact Assessment Act (IAA) in Nunavik and the Nunavik Marine Region

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EXECUTIVE SUMMARY

August 2019 marked a turn in the field of impact assessments (IA) for development projects. A new federal IA process was established under the Impact Assessment Act, offering options for improved collaboration between the federal government and other jurisdictions having powers and responsibilities in the field of IA across Canada, such as provinces and territories, Indigenous governing bodies and treaty-based co-management boards. In Nunavik and the Nunavik Marine Region, up to four unique processes may apply to a development project, depending on its location, project type and features. These processes arise from the 1975 James Bay and Northern Quebec Agreement, the 2008 Nunavik Inuit Land Claims Agreement and Canada's Impact Assessment Act. They involve a variety of responsible bodies as well as procedural overlaps that have been the object of various coordination attempts over the past decades. Given the complexity and diversity of the IA procedures applicable in Nunavik, a working group formed of representatives from Makivik Corporation, the Naskapi Nation of Kawawachikamach and the Kativik Environmental Advisory Committee was established to study the implementation of the Act in the region.

After comparing the treaty processes as well as identifying key practical implications *via* interviews with the responsible boards, the working group analyzed the Impact Assessment Act implementation options to identify those best suited for the region. Five options were analyzed: coordination and cooperation agreements, delegation, substitution, joint review panel and non-application of the Act. Each were evaluated by identifying their prerequisites, by determining whether they address current challenges and opportunities for Nunavik's IA framework, and by verifying whether they raise concerns in relation to the differences that exist between the above-mentioned four processes. The idea was to determine how the options offered in the Act might help to better implement Nunavik's land claims agreements by supporting better coordination between IA bodies, or at least not interfering with the land claims agreement processes. Two key factors influenced the working group's results. First, Nunavik's IA framework requires reinforced coordination particularly at the preliminary stages of IA processes. Second, there is little to no experience of integrating more than two processes for the sake of streamlining under the Impact Assessment Act, which is significant for a region like Nunavik where up to four IA processes may apply.

Keeping in mind that the Impact Assessment Act is recent legislation and that further supporting policy and regulations are expected from Canada in the future, the working group identifies two preferred implementation options for Nunavik: cooperation and coordination agreements and non-application. Cooperation and coordination agreements are recommended as a short/medium-term option because of their flexible nature and the aim to secure collaborative mechanisms before the next major development project is undertaken in the region. Non-application of the Act is recommended as a longer-term option. Additionally, the working group makes supplementary recommendations which could contribute to the improvement of Nunavik's IA framework.

In summary, this report serves as a reference tool and a starting point for the James Bay and Northern Quebec Agreement, Northeastern Quebec Agreement and Nunavik Inuit Land Claims Agreement signatories and concerned boards to engage in a deeper dialogue on the best way to implement the Impact Assessment Act in Nunavik and, more generally, to improve and formalize the harmonization of mechanisms to support an efficient IA framework.

ᑐᓴᕐᑎᓯᒍᑎᓂᒃ ᓄᓪᓕᑎᓇᒍᑏᑦ

ᐊᐅᒡᒍᓯ 2019-ᖑᑎᓪᓗᒍ ᓴᖑᒋᐊᕐᓂᑕᖃᓚᐅᔪᖅ ᐱᕙᓪᓕᐊᓂᕐᒥ ᐱᓇᓱᐊᕐᑕᐅᔪᑦ ᓱᕐᕈᒍᑎᖏᑦᑕ ᖃᐅᔨᓴᕐᑕᐅᓂᖏᓐᓂᑦ. ᓄᑖᒥᒃ ᑲᓇᑕᐅᑉ ᑲᕙᒪᖓᑕ ᐱᓇᓱᒍᓯᖓᓂᒃ ᐋᖅᑭᑕᐅᔪᖃᓚᐅᔪᖅ ᓱᕐᕈᒍᑏᑦ ᖃᐅᔨᓴᕐᑕᐅᓂᖏᓐᓄᑦ ᐱᖁᔭᖅ ᒪᓕᑦᓯᒍ, ᓄᐃᑦᓯᔪᓂᒃ ᐱᕕᑦᓴᖃᕈᑎᓂᒃ ᑲᓇᑕᐅᑉ ᑲᕙᒪᖓᑕ ᐊᒻᒪᓗ ᐊᓯᖏᑦ ᐊᐅᓚᑦᓯᔨᐅᕕᓃᑦ ᓄᑭᖅᑲᐱᒋᑦᓯᒋᑦ ᑲᒪᒋᔭᖅᑲᐱᒋᑦᓯᒋᓗ ᓱᕐᕈᒍᑎᓂᒃ ᖃᐅᔨᓴᕐᓂᒧᐊᖑᔪᓂᒃ ᑲᓇᑕᓕᒫᒥ ᐱᓇᓱᐊᖅᑎᕆᑦᓯᐊᓂᕐᓴᐅᒍᑎᑦᓴᖏᓐᓂᒃ, ᐆᒃᑐᕋᐅᑎᒥᓄᑦ ᑲᓇᑕᐅᑉ ᐊᕕᑦᑐᓯᒪᓂᖓᒍᑦ ᓄᓇᑖᕆᔭᐅᓯᒪᔪᓪᓗ ᑲᕙᒪᖏᑦ, ᓄᓇᖃᖅᑳᖅᓯᒪᔪᑦ ᐊᐅᓚᑦᓯᔨᐅᕙᖃᓂᑦ ᐱᓇᓱᐊᕕᖏᑦ ᐊᒻᒪᓗ ᐊᖏᖃᑎᒌᒍᑎᒥᒃ-ᑐᙵᕕᖃᓯᑎᒃ ᑲᒥᒋᖃᖅᑎᒌᒍᑎᓂᒃ ᑲᑎᙵᔫᑦ. ᓄᓇᕕᒻᒥ ᐊᒻᒪᓗ ᓄᓇᕕᐅᑉ ᑕᓇᐅᖓᓂ, ᓯᑕᒪᓄᑦ ᑎᑭᒍᓐᓇᑐᑦ ᐊᑦᔨᐅᖏᑦᑑᒍᑎᓂᓐᓄᑦ ᐱᓇᓱᐊᕐᑌᑦ ᐱᕙᓪᓕᐊᓂᕐᒥ ᐱᓇᓱᐊᕐᑕᐅᕙᓐᓄᑦ ᐊᑐᕐᑎᑕᐅᒍᓐᓇᑐᑦ, ᓇᓃᓐᓂᖏᑦ, ᐱᓇᓱᐊᕐᑕᐅᑉ ᓱᓇᓕᓈᓂᖓ ᓱᓇᓂᓪᓗ ᐱᓇᓱᐊᕐᑕᖃᕐᒪᖔᑦ ᐃᐸᒋᑦᓯᒋᑦ. ᑖᒃᑯᐊ ᐱᓇᓱᐊᕐᑕᐅᒍᓯᖏᑦ ᓄᐃᓯᒪᔪᑦ 1975-ᓂᑦᓯᒥ ᔪᓚᐃ V ᐊᒻᒪᓗ ᑯᐯᒃ ᑦᓯᕿᖓᑕ ᐊᖏᖃᑎᒌᓐᓂᖓᓂᑦ, 2008-ᓂᑦᓯᒥᑦ ᓄᓇᕕᒻᒥ ᓄᓇᑖᕐᓂᓗᑦ ᐊᖏᖃᑎᒌᒍᑎᒥᑦ (ᖄᖃᑦᓯᓂᒃ) ᐊᒻᒪᓗ ᑲᓇᑕᐅᑉ ᓱᕐᕈᒍᑏᑦ ᖃᐅᔨᓴᕐᑕᐅᓂᖏᓐᓄᑦ ᐱᖁᔭᖓᓂᑦ. ᑖᒃᑯᐊ ᐱᑕᖃᕐᑎᓯᔪᑦ ᐊᑦᔨᒌᖖᒋᑐᓂᒃ ᑲᒥᒋᖃᓇᐊᓕᖕᓂᒃ ᑎᒥᐅᔪᓂᒃ ᐊᒻᒪᓗᑦᑕᐅᖅ ᐊᐅᓚᑦᓯᓂᕐᒧᐊᖑᔪᓂᒃ ᐊᑕᐅᔩᒍᖖᒋᑐᓄᑦ ᐊᑦᑐᐊᔪᓂᒃ ᐱᑕᖃᕐᓯᑎᒃ ᑖᒃᑯᐊᓗ ᐊᖏᖁᒐᓴᐅᓕᕐᑐᓂᑦ ᖁᓕᑐᐃᓇᐅᒍᓐᓄᑐᓂᑦ ᐊᓂᒍᕐᓯᒪᓕᕐᑐᓂᑦ ᐊᑕᐅᑦᓯᑰᓕᕐᑎᓯᒍᑎᐅᒋᐊᕐᑐᓄᑦ ᐱᓇᓱᑦᑕᐅᒐᓱᐊᖅᑕᓂᑰᓕᕐᓯᑎᒃ. ᓱᕐᕈᒍᑏᑦ ᖃᐅᔨᓴᕐᑕᐅᓂᖏᑦᑕ ᐱᓇᓱᑦᑕᐅᓂᖏᓐᓄᑦ ᓄᓇᕕᒻᒥ ᐊᑐᕐᑎᑕᐅᔪᓂᑦ ᒪᓕᑦᑕᐅᒋᐊᓖᑦ ᐱᔭᓇᐊᑐᔪᕐᑕᖃᕐᓂᖁᖏᓐᓄᑦ ᐊᑦᔨᒌᖑᖖᒋᓂᖁᖏᓐᓄᓗ, ᐋᖅᑭᑕᐅᔪᖃᓚᐅᔪᖅ ᐱᓇᓱᑦᑕᐅᒋᐊᓕᖕᓂᒃ ᑲᓕᖓᔪᓂᒃ ᑭᒐᑐᕐᑐᓂᒃ ᒪᑭᕝᕕᒥᒃ, ᓇᖃᐱᒃᑯᓂᒃ ᑲᒍᐊᒍᐊᑦᓯᑲᓖᒥ ᐊᒻᒪᓗ ᑲᑎᕕᒃ ᐊᕙᑎᓕᓇᓂᕐᒥ ᐊᔪᕿᕆᐊᕐᑎᓂᒃ ᑲᑎᙵᔫᓂᒃ ᖃᐅᔨᓴᕐᓂᐊᑎᓪᓗᒥᑦ ᐱᖁᔭᐅᑉ ᑲᔪᓯᑎᑕᐅᓂᖓᓂᒃ ᑕᒫᓂ ᐊᐅᓚᑦᓯᔨᕕᒥ.

ᓄᓇᑖᕐᓂᓗᑦ ᐊᖏᖃᑎᒌᒍᑏᑦ ᐱᓇᓱᑦᑕᐅᒍᓯᖏᓐᓂᒃ ᖃᓄᐃᓕᖓᓂᕐᓴᐅᖃᑎᒌᓪᒪᖔᑦ ᑕᑯᓚᐅᑲᑦᓯᒋᑦ ᐊᒻᒪᓗᑦᑕᐅᖅ ᐊᑑᑎᓪᓚᓇᑦᑐᓂ ᓱᕋᑕᐅᓚᖓᔪᑦ ᐱᒻᒪᓇᐅᓂᖏᓐᓂᒃ ᓇᓗᓄᕐᓯᓯᑎᒃ ᐊᑐᕐᓯᒋᑦ ᑲᒥᒋᓕᖓᓂᒃ ᑲᑎᙵᔫᓂᒃ ᐊᐱᕐᓯᓂᑲᑦᑕᓃᑦ, ᐱᓇᓱᑦᑕᐅᒋᐊᓕᖓᓂᒃ ᑲᒪᔩᑦ ᑐᑭᓯᓇᕐᑎᓯᔪᕕᓃᑦ ᓱᕐᕈᒍᑏᑦ ᖃᐅᔨᓴᕐᑕᐅᓂᖏᓐᓄᑦ ᐱᖁᔭᐅᑉ ᑲᔪᓯᑎᑕᐅᓂᖓ ᐱᓪᓗᒍ ᐱᐅᓯᓇᔭᐅᒋᐊᑭᓐᓇᑐᓂᒃ ᓄᓇᓕᓕᒫᓂ ᐊᑐᕐᑕᐅᓗᑎᒃ ᐊᑲᐅᓂᕐᐸᐅᒐᔭᕐᑐᑦ ᓇᓗᓄᕋᓯᐊᕐᓯᒋᑦ. ᑕᓪᓕᒻᒥᑦ ᐊᑦᔨᒌᖖᒋᑐᑦ ᐊᑐᕐᑕᐅᒋᐊᑭᓐᓇᑐᑦ ᑐᑭᓯᓇᕐᑎᑕᐅᒋᐊᕐᑐᕕᓃᑦ: ᐊᑕᐅᑦᓯᑯᕐᑎᓯᓂᕐᒧᐊᖓᔪᑦ ᐱᓇᓱᐊᖅᑎᕐᑏᓐᓄᓪᓗ ᐊᖏᖃᑎᒌᓐᓃᑦ, ᑎᓕᔨᓯᒪᒍᑏᑦ, ᐃᓇᖏᕐᓯᒣᒍᑏᑦ, ᑕᒪᒋᑦᑕ ᖁᒥᕐᑭᔨᐅᑎᑕᐅᔪᓄᑦ ᐃᓚᐅᕕᖃᕐᓂᒥᒃ ᐊᒻᒪᓗ ᐱᖁᔭᕐᒥᒃ ᐊᑐᕐᑕᐅᑎᑦᓯᖏᓐᓂᖅ. ᐃᓘᓇᖏᑦ ᖃᐅᔨᓴᕐᑕᕕᓃᑦ ᐱᑕᖃᓐᓂᕐᓯᒪᒋᐊᓕᕕᓂᑦᑕᖏᓐᓂᒃ ᓇᓗᓄᕐᓯᓂᒃᑯᑦ, ᐅᓪᓗᒥᐅᑎᓪᓗᒍ ᓄᓇᕕᐅᑉ ᓱᕐᕈᒍᑏᑦ ᖃᐅᔨᓴᕐᑕᐅᓂᖏᓐᓄᑦ ᑐᙵᕕᖏᓐᓄᑦ ᐱᔭᕐᓃᕐᑑᖃᑦᑐᓂᒃ ᐊᒻᒪᓗ ᐱᕕᑦᓴᐅᖃᑦᑐᓂᒃ ᑲᒥᒋᖃᖅᑲᐅᖁᖓᓂᒃ ᓱᕐᖁᐃᓯᒋᑦ. ᐃᓯᒪᒋᔭᕕᓂᖅ ᐃᓖᒃ ᓱᕐᖁᐃᓗᒋᑦ ᑖᒃᑯᐊ ᐊᑐᓂᑦ ᐱᖁᔭᕐᒥ ᐊᑐᕐᑕᐅᒋᐊᑭᓐᓇᕕᖃᕐᑎᑕᖏᑦ ᖃᓄᖅ ᐃᑲᔪᕐᓯᒍᓐᓇᕕᖃᕐᒪᖔᑦ ᑲᔪᓯᑎᑕᐅᑦᓯᐊᓂᕐᓴᐅᑎᓗᒋᑦ ᓄᓇᕕᐅᑉ ᓄᓇᑖᕐᓂᓗᑦ ᐊᖏᖃᑎᒌᒍᑎᖏᑦ ᐊᑕᐅᑦᓯᑯᕐᑎᑕᐅᓯᒪᑦᓯᐊᓂᕐᓴᐅᒍᑎᖏᓐᓂᒃ ᓱᕐᕈᒍᑏᑦ ᖃᐅᔨᓴᕐᑕᐅᓂᖏᓐᓄᐊᖓᔪᓄᑦ ᑎᒥᐅᔪᓂᒃ ᓴᐳᑎᓯᒪᓂᒃᑯᑦ, ᐅᕝᕙᓘᓐᓃᑦ ᓄᓇᑖᕐᓂᓗᑦ ᐊᖏᖃᑎᒌᒍᑏᑦ ᐱᓇᓱᑦᑕᐅᒍᓯᖏᓐᓂᒃ ᐅᓚᐱᑦᓯᑲᑦᑕᕿᓐᓄᓕᕐᑎᓯᑦᓴᕿᑎᓘᓐᓃᑦ. ᒪᖅᑮᒃ ᐱᑦᔪᑏᒃ ᐊᔪᐅᓇᓯᒪᒍᑎᐅᓗᐊᖖᒍᐊᑑᒃ ᐱᓇᓱᑦᑕᐅᒋᐊᓕᖓᓂᒃ ᑲᒪᔩᑦ ᓄᐃᑕᖏᓐᓂᒃ. ᓯᕗᓪᓕᖅ, ᓄᓇᕕᐅᑉ ᓱᕐᕈᒍᑏᑦ ᖃᐅᔨᓴᕐᑕᐅᓂᖏᓐᓄᑦ ᑐᙵᕕᓕᕐᑐᒍᑎᖏᑦ ᐱᑕᖃᓇᐊᓖᑦ ᐊᑕᐅᑦᓯᑯᕐᑎᓯᒍᑎᓂᒃ ᐊᑦᑕᓄᓕᕆᐊᕐᓯᒪᔪᓂᒃ ᓱᕐᕈᒍᑏᑦ ᖃᐅᔨᓴᕐᑕᐅᓂᖏᓐᓂᒃ ᐱᓇᓱᒍᓰᑦ ᐱᕆᐊᕐᕕᓕᒍᑎᖏᓐᓂᑦ ᐱᓗᐊᕐᑐᖅ. ᑐᖓᓕᐊ, ᐱᑕᖃᓪᓗᐊᖏᓪᓕᖅ ᐅᕝᕙᓘᓐᓃᑦ ᐊᑑᑎᔪᕐᑕᖃᕐᓯᒪᒐᓂᓘᓐᓃᑦ ᒪᕐᑭᐃᑐᐃᓐᓇᐅᖏᑦᑑᓂᒃ ᐱᓇᓱᒍᓯᓂᒃ ᐊᑕᐅᓯᕐᒍᓕᖓᒋᐊᓕᓐᓂᒃ ᑲᔪᓯᑎᑦᓯᓂᕐᒥᒃ ᓱᕐᕈᒍᑏᑦ ᖃᐅᔨᓴᕐᑕᐅᓂᖏᓐᓄᑦ ᒪᓕᒐᖅ ᐊᑐᕐᓯᒍ, ᑕᒪᓐᓇᓗ ᐱᒻᒪᓇᐅᑦᓯᓂ ᓄᓇᖃᕐᕕᒍᑦ ᓄᓇᕕᑎᑐᑦ ᐃᓖᒃ ᓱᕐᕈᒍᑏᑦ ᖃᐅᔨᓴᕐᑕᐅᒍᑎᖏᓐᓄᑦ ᐱᓇᓱᒍᓰᑦ ᐊᑐᕐᑎᑕᐅᔪᑦ ᓯᑕᒪᓄᑦ ᑎᑭᒍᓐᓇᑕ.

ᐳᐃᒍᕐᑌᓕᑦᓯᒍᓗ ᐃᓖᒃ ᓱᕐᕈᒍᑏᑦ ᖃᐅᔨᓴᕐᑕᐅᓂᖏᓐᓄᑦ ᐱᖁᔭᖅ ᐱᖁᔭᖖᒍᑎᑕᐅᖅᑲᒥᐅᒻᒪᑦ ᐊᒻᒪᓗ ᓴᐳᑎᓯᒪᒍᑎᒋᐊᓪᓚᑦ ᒪᓕᒃᑦ ᒪᓕᑦᑕᐅᒋᐊᓖᓪᓗ ᑲᓇᑕᐅᑉ ᑲᕙᒪᖓᑦ ᓯᕗᓂᕐᒥ ᓂᓇᐅᒥᔭᐅᔪᑦ, ᐱᓇᓱᑦᑕᐅᒋᐊᓕᖓᓂᒃ ᑲᒪᔩᑦ ᓇᓗᓄᕐᓯᔪᑦ ᒪᕐᑭᐃᓂᒃ ᓄᓇᕕᒻᒪᐊᖓᔪᓂᒃ ᑲᔪᓯᑦᓯᒍᑎᐅᓗᑎᒃ ᐊᑐᕐᑕᐅᒐᓂᕐᓴᐅᒐᔅᓲᓂᒃ: ᐱᓇᓱᐊᖅᑎᕐᒍᑎᖃᕐᓂᓗᑦ ᐊᒻᒪᓗ ᐊᑕᐅᑦᓯᑯᕐᑎᓯᒍᑎᓄᑦ ᐊᖏᖃᑎᒌᒍᑏᑦ ᐊᒻᒪᓗ ᒪᓕᖖᒋᑐᐱᓂᐅᔭᖃᐸᑦ ᖃᓄᐃᓘᕿᑎᑦᓴᑦ. ᐱᓇᓱᐊᖅᑎᕐᒍᑎᖃᕐᓂᓗᑦ ᐊᒻᒪᓗ ᐊᑕᐅᑦᓯᑯᕐᑎᓯᒍᑎᓄᑦ ᐊᖏᖃᑎᒌᒍᑏᑦ ᐊᑐᕿᑦᓴᖁᑎᒥᔭᐅᓂᖏᑦ ᐅᖃᐅᓯᐅᔪᑦ ᐊᑯᓂᓇᖖᒋᑐᓗᑦ/ᐊᑯᓂᓇᓚᓚᑦᑐᓗᑦ ᐊᑐᕐᑕᐅᓗᑎᒃ ᐃᓖᒃ ᐱᐅᓯᕐᒥᑎᒍᑦ ᓴᖑᑎᕐᑕᐅᒍᓐᓇᑎᑦᓯᕕᖃᕐᓂᖏᓐᓄᑦ ᐊᒻᒪᓗ ᑐᕌᒐᖃᕐᓂᑯᓗᑦ ᐱᓇᓱᖃᑎᒌᒍᑎᐅᓗᑎᒃ ᐱᓇᓯᑎᐅᓚᖓᔪᓂᒃ ᐊᑦᑕᓄᓕᑎᑦᓯᓯᒪᒍᒪᔪᑦ ᐊᖏᔪᓂᒃ ᐱᓇᓱᐊᕐᑐᖃᖓᔪᓂᒃ ᓄᓇᕕᒻᒥ ᐱᒋᐊᕐᑐᖃᓇᐊᓪᓚᖏᓐᓂᖓᓂᑦ. ᐊᑯᓂᐅᓂᕐᓴᒍᑦ ᓯᕗᓂᕐᒍᑦ ᐃᓖᖖᒋᕈᑎᐅᓯᒪᔪᖅ ᑖᓐᓇ ᐱᖁᔭᖅ ᐊᑐᕐᑎᑕᐅᒐᔭᕐᒥᑎᓪᓗᒍ. ᐃᓕᒋᐊᕐᓗᒍ, ᐱᓇᓱᑦᑕᐅᒋᐊᓕᖓᓂᒃ ᑲᒪᔩᑦ ᐃᓖᖖᒋᕈᑎᒋᐊᓪᓚᓂᒃ ᓄᐃᑦᓯᔪᑦ ᓄᓇᕕᒻᒥ ᓱᕐᕈᒍᑏᑦ ᖃᐅᔨᓴᕐᑕᐅᓂᖏᓐᓄᑦ ᑐᙵᕕᓕᕐᑐᐃᒋᐊᕐᓯᐊᕈᑎᓂᒃ ᐃᑲᔪᕐᓯᒍᓐᓇᑐᓂᒃ.

ᓄᓪᓕᑎᕐᓯᒍ, ᑖᓐᓇ ᑐᓴᕐᑎᓯᒍᑎ ᐊᑐᕐᓂᓕᒃ ᐱᓇᓱᒍᑎᐅᑐᓂ ᖃᐅᔨᒪᒍᑎᐅᓂᐊᕐᑐᓂ ᐊᒻᒪᓗ ᐱᒋᐊᕐᕕᐅᓯᓂ ᔪᓚᐃ V ᐊᒻᒪᓗ ᑯᐯᒃ ᑦᓯᕿᖓᑕ ᐊᖏᖃᑎᒌᓐᓂᖓᓂᑦ, ᑯᐯᑦ ᑦᓯᕿᖓ ᑲᓇᓐᓇᓯᖓᓂ ᐊᖏᖃᑎᒌᓐᓂᒥᒃ ᐊᒻᒪᓗ ᓄᓇᑖᕐᓂᓗᑦ ᐊᖏᖃᑎᒌᓐᓂᒥᒃ ᐊᑎᓕᐅᕐᓯᒪᔪᑦ ᐊᒻᒪᓗ ᑖᒃᑯᓄᖓᐅᓕᖓᔪᑦ ᑲᑎᙵᔫᖏᑦᑕ ᐅᖄᖃᑎᒌᒍᑎᖃᓪᓕᓇᓂᓴᐅᒍᑎᖏᓐᓄᑦ ᖃᓄᖅ ᓱᕐᕈᒍᑏᑦ ᐊᖏᖃᑎᒌᓐᓂᖓ ᓄᓇᒥ ᑲᔪᓯᑎᑕᐅᑦᓯᐊᓂᕐᐸᐅᒐᓱᒪᖔᑦ ᐊᒻᒪᓗ, ᐃᓘᓐᓇᖓᓄᐊᖓᓂᕐᓴᓂᒃ, ᐱᐅᓯᒋᐊᓇᓂᕐᒥᒃ ᐊᒻᒪᓗ ᐃᓕᑕᓇᐅᓯᒪᓕᕐᑎᓯᒍᑎᓂᒃ ᐱᓇᓱᒍᑎᖏᑦᑕ ᐊᑕᐅᑦᓯᑯᑦᓯᐊᕈᑎᖏᓐᓂᒃ ᓴᐳᒥᒍᑎᒋᓗᒋᑦ ᓱᕐᕈᒍᑏᑦ ᖃᐅᔨᓴᕐᑕᐅᓂᖏᑦᑕ ᑐᖖᒐᕕᓕᕐᓯᒪᒍᑎᖏᓐᓂᒃ ᐊᑐᑦᓯᐊᕈᓐᓇᑐᓂᒃ.

ᒥᒪᓐ ᐃᔨᒧᐅᓐ

ᐊᑲᔅᑕᐱᔨᒻ, 2019 ᐱᐳᓐ, ᐊᐅᑯᑦ ᑲᐱᒧᑯᑕᒡ ᐊᑐᔅᒐᐅᓐ ᐃᔨᒧᓐ ᐊᓇᑐᔅᒐᐃᑕᑲᓄᒡ ᐊᓐᑕ ᐋᒋᒥᑕᑲᓄᒋ ᐊᑐᔅᒐᐅᓇ᙮ ᐊᓐᑕ ᐊᐅᔅᑲᒡ ᐊᑐᐋ ᐃᔨᒧᐅᓐ ᐊᓇᑐᔅᒐᐃᑕᑲᓄᒡ ᒐ:ᑲᓐ ᐊᓯᒪᑕᐃᑕ:ᑲᒡ ᐊᓐᑕ ᑲᐅᒡ ᒋᒥᑕᑲᓄᒡ ᐊᓯᒪᑕᐃᑕ:ᑲᒡ ᐃᔨᒧᐅᓐ ᐊᓇᑐᔅᒐᐃᑕᑲᓄᒡ ᐎᓯᐋᐅᓐ, ᐊᓐᑕ ᑕᑐᐎᒡ ᐊᒋᑕᐸᑕᑲᓄᒡ ᒐᐃᓯᐱᒧᑕᓄᐤ ᒐᒋ ᑐᐎᔅ ᒥᔦᐱᑕᑲᓄᒡ ᒐᒋ ᒪᒧ ᐅᒡ ᐊᑐᔅᒐᒥᑐᓇᓄᒡ ᐊᓐᑕ ᐊᑐᐋ ᒋᔅᐅᒋᒪᑲᓂᒡ ᑭᔭ ᐊᓐᑕ ᑕᑐᐎᒡ ᐊᓯᑐᔅᑲᔅᑕᒡ ᑲᒐᐅᒋᒪᑐᔅᒐᐅᒥᓯᓇᐃᑭᓐᒋᐋᐱᒡ ᑕᑯᓂᒡ ᐅᓯᒋᔦᐅᓄᐋᐤ ᑭᔭ ᐅᑎᑐᔅᒐᐅᓄᐋᐤ ᐊᓐᑕ ᐊᑐᔅᒐᐅ ᐃᔨᒧᐅᓐ ᐊᓇᑐᔅᒐᐃᑕᑲᓄᒡ ᐅᑕ ᑲᓇᑕ, ᒧᔭᒻ ᑲᓇᑕ ᐊᑎᔅᑭᒥᑲᒡ, ᐃᔦᐤ ᒋᔅᐅᒋᒪᐅᓂᒡ ᑭᔭ ᐊᓐᑕ ᐋᔅᑕᐱᓯᓂᒡ ᑕᑐᐎᒡ ᐊᓯᓇᑯᓂᒡ ᑲᒪᒧᐃᑐᓇᓄᐃᒡ ᐊᐱᔅᑕᒡ᙮ ᐊᓐᑕ ᓄᓇᐱᒃ ᑭᔭ ᓄᓇᐱᒃ ᐎᓂᐸᑯᒡ ᐃᑕᐅᓇ, ᓇᐅᐎᒡ ᐊᓐᑕ ᐊᓯᐱᒧᑕᓄᒡ ᐊᒋᑕᐸᑕᒡ ᒐᒋ ᐱᒧᑕᑲᓄᒡ ᐊᓐᑕ ᐊᑐᔅᒐᐅᓐ ᒋᒥᑕᑲᓄᒡ, ᑭᔭ ᑕᓐᑕ ᐋᑐᑕᑲᓄᒡ, ᐊᓯᓇ:ᑲᒡ ᐊᑐᔅᒐᐅᓐ, ᒐᐃᔅ ᐊᑐᔅᒐᒥᑲᒡ᙮ ᐊᓐᑕ ᐊᓯᐱᒧᑕᓄᒡ ᐊᓐᑕ ᑲᐅᒋᐱᐃᒡ 1975 ᐱᐳᓐ ᒋᒥᔅ ᐱ ᑭᔭ ᒋᐋᑎᓄᒡ ᑯᐸᒃ ᓂᔅᑯᒧᐅᓐ, ᑭᔭ 2008 ᐱᐳᓐ ᓄᓇᐱᒃ, ᐃᔅᒋᒪᐅᒡ ᐊᔅᒋᔅ ᑎᐸᐃᑎᒧᐅᓇ ᓂᔅᑯᒧᐅᓐ, ᑭᔭ 2008 ᐱᐳᓐ ᓄᓇᐱᒃ ᐃᔅᒋᒪᐅᒡ ᐊᔅᒋᔅ ᑎᐸᐃᑎᒧᐅᓐ ᓂᔅᑯᒧᐅᓐ ᑭᔭ ᑲᓇᑕ ᐃᔨᒧᐅᓐ ᐊᓇᑐᔅᒐᐃᑕᑲᓄᒡ ᐊᓯᒪᑕᐃᑕ:ᑲᒡ ᒐ:ᑲᓐ ᐎᓯᐋᐅᓐ᙮ ᐊᓐᑕ ᑕᑐᐎᒡ ᑲᐅᒡ ᐊᑐᔅᑲᔅᑕᑲᓄᒡ ᐊᓐᑕ ᒥᒐᑦ ᑕᑎᐳᓇ᙮ ᐊᓐᑕ ᑲᔭᐃᒥᓇ:ᑲᒡ ᑭᔭ ᐊᑲ ᐅᒡ ᑲᔅᑕᑯᒡ ᐊᐋᓐᒋ ᑲᐎᐋᐃᒋᑯᓯᒡ ᐊᓐᑕ ᐃᔨᒧᐅᓐ ᐊᓇᑐᔅᒐᐃᑕᑲᓄᒡ ᑲᐃᔅ ᐱᒧᑕᒥᑲᒡ ᐊᓐᑕ ᒐᒋ ᐅᒡ ᐊᑐᔅᑲᐋᒐᓄᒡ ᑲᒪᒧᐃᓇᓄᒡ ᑲᑐᑕᑲᓄᒡ ᐊᓐᑕ ᑯᐸᓇᔅᒡ ᑲᒋᒥᔭᑲᓄᒡ ᒪᑭᐱᒃ ᐃᔅᒋᒪᐅᒡ ᑭᔭ ᓇᔅᑲᐱ ᑯᐸᓇᔅᒡ ᑭᔭ ᑲᑎᐱᒃ ᐊᔅᒋᔅ ᐋᑲᐙᐃᒐᐅᓯᒡ ᑲᒪᒧᐃᓇᓄᐃᒡ ᑲᒋᒥᑕᑲᓄᒡ ᒐᒋ ᐅᒡ ᓇᑐᔅᒐᐃᑕᑲᓄᒡ ᐃᔨᒧᐅᓐ ᐊᓯᑐᔅᑲᔅᑕᑲᓄᒡ ᐎᓯᐋᐅᓐ ᐊᓐᑕ ᐃᑕᐅᓂᒡ᙮

ᑲᒋ ᐊᓐᑕ ᒪᒧ ᒋᑕᐸᑕᑲᓄᒋ ᓂᔅᑯᒧᐅᓐ ᑲᐃᔅ ᐱᒧᑕᒥᑲᒡ ᔭᐱᒡ ᐊᓐᑕ ᑲᐋᐸᑎᐋᓄᒡ ᑕᑐᐎᒡ ᑲᐃᔅ ᔭᐃᒥᔦᓇᓄᒡ ᑭᔭ ᐊᓐᑕ ᑲᐎᓂᔅᑯᐋᑲᓄᒡ ᐊᑐᔅᑲᔅᑕᒡ ᒐ:ᑲᔦᐤ ᐊᑐᔅᒐᐅᓂᒡ, ᑲᒪᒧᐃᓇᓄᐃᒡ ᐊᐱᔅᑕᒡ ᐊᑐᔅᒐᐅᓐ ᐊᐋᑕᐸᑕᑲᓄᒡ ᐊᓯᒪᑕᐃᑕ:ᑲᒡ ᐃᔨᒧᐅᓐ ᐎᓯᐋᐅᓐ ᐊᓐᑕ ᐊᓯᑐᔅᑲᔅᑕᑲᓄᒡ ᑕᑐᐎᒡ ᒐᒋ ᒋᑕᐸᑕᑲᓄᒡ ᐊᓐᑕ ᐊᓯᒥᔦᔅᑲᑯᑦ ᐊᔅᒋᔅ ᐊᒋᑕᐸᑕᑲᓄᒡ᙮ ᐱᑕᑕᒡ ᑕᑐᐎᒡ ᒐᒋ ᐃᓯᒋᑕᐸᑕᑲᓄᐤ: ᐊᔭᔅᑯᔅᑕᑲᓄᒡ ᑭᔭ ᐋᒋᑐᔅᒐᒥᑐᓇᓄᒡ ᓂᔅᑯᒧᐅᓇ, ᐊᐋᓐᒋ ᐊᑐᔅᑲᔅᑕᒡ ᑯᐸᓇᔅᒡ, ᐊᔭᔅᑯᐋᑲᓄᑦ ᐊᐋᓐ ᒐᒋ ᐊᐱᒐᑲᓄᑦ, ᒪᒧ ᒐᒋ ᒋᑕᐸᑕᑲᓄᒡ ᐃᔨᒧᐅᓐ ᑲᐱᒧᑕᑲᓄᒡ ᑭᔭ ᐊᓐᑕ ᐋᑎᓯᑕᑲᓄᒡ ᐎᓯᐋᐅᓐ᙮ ᐸᐸᐃᑊ ᑲᒋᑕᐸᑕᑲᓄᒋ ᒐᒋ ᓇᑐᔅᒐᐃᑕᑲᓄᒋ ᐅᔅᒐᐃᑎᒧᐅᓄᐋᐤ, ᐊᓐᑕ ᒐᒋ ᐊᔅᒐᐃᑕ:ᑲᒡ ᐊᓄᒡ ᐊᓯᐱᒧᑕᒡ ᐃᔨᒧᐅᓂᔦᐤ ᐊᑐᔅᑲᔅᑕᑲᓄᐃᒡ ᑭᔭ ᐊᑎ:ᑲᒡ ᒐᐃᓯᐱᒧᑕᓄᒡ ᐊᓐᑕ ᓄᓇᐱᒃ ᐃᔨᒧᐅᓐ ᐊᓇᑐᔅᒐᐃᑕᑲᓄᒡ ᒐᐃᓯᓇᑯᑕᑲᓄᒡ ᒐᐃᔅ ᐊᑐᔅᑲᐋᒐᓄᒡ, ᑭᔭ ᒐᒋ ᐊᔅᒐᐃᑕ:ᑲᒡ ᒐᒃ ᐊᓐᑕ ᐊᐋᐃᑕᒡ ᒐ:ᑲᔦᐤ ᑲᔭᐃᒪᒐᓂᒥᐋᐃᒡ ᐊᓐᑕ ᐊᔅᑕᐱᑎᒡ ᐊᓐᑕ ᑕᑎᐸᓐ ᐊᓯᐱᒧᑕᒥᑲᒡ ᐊᓄᒡ ᐊᓐᑕ ᓇᐅᐎᒡ ᒐ:ᑲᓐ ᐊᓯᒋᑕᐸᑕᑲᓄᒡ᙮ ᐊᓐᑕ ᑲᐃᑕᐃᑕᑲᓄᒡ ᒐᒋ ᐊᔅᒐᐃᑕ:ᑲᒡ ᑕᐊᓐ ᐊᓂᔭ ᑲᐎᓇᓴᐃᑲᓄᒋ ᐋᐃᓯᐱᒧᑕᓄᒡ ᑲᐱᔅᑎᓇᑲᓄᒋ ᐊᓐᑕ ᐎᓯᐋᐅᓂᒡ ᒐᒋ ᐋᐃᒋᐋᑦ ᐊᓐᑕ ᑐᐎᔅ ᒐᒋ ᒥᔦᑐᔅᑲᔅᑕᑲᓄᒡ ᓄᓇᐱᒃ ᐊᔅᒋᔭ ᑎᐸᐃᑎᒧᐅᓐ ᓂᔅᑯᒧᐅᓇ ᐊᓐᑕ ᒐᒋ ᐋᐃᒋᐋᓄᒡ ᐊᓐᑕ ᑐᐎᔅ ᒐᒋ ᒥᔦᐱᑕᑲᓄᒡ ᐊᓯᔭᔭᑎᓇᑲᓄᒡ ᐊᓐᑕ ᐋᒋᑐᔅᑲᔅᑕᑲᓄᒡ ᐊᓯᒪᑕᐃᑕ:ᑲ ᐃᔨᒧᐅᓐ ᐊᓇᑐᔅᒐᐃᑕᑲᓄᒡ, ᑭᔭ ᒪᒃ ᐊᑲ ᐊᓐᑕ ᒪᒪᓯᐋᓄᒡ ᐊᓐᑕ ᐊᑐᔅᑲᔅᑕᑲᓄᒡ ᐊᔅᒋᔅ ᑎᐸᐃᑎᒧᐅᓐ ᓂᔅᑯᒧᐅᓐ ᒪᒧ ᐊᓇᑎᐱᔅᑕᑐᓇᓄᒡ᙮ ᓂᓯ ᒐ:ᑲᓐ ᐊᑎ:ᑲᒋ ᐊᓐᑕ ᑲᑲᔅᑕᑯᒡ ᐊᒪᒧᐃᓇᓄᒡ ᐃᔨᒧᐅᓐ ᐊᑐᔅᑲᔅᑕᑲᓄᒡ ᐊᓐᑕ ᐃᔨᒧᐅᓐ ᑲᐃᔅ ᓇᑐᔅᒐᐃᑕᑲᓄᒡ᙮ ᐅᔅᑲᒡ, ᓄᓇᐱᒃ ᐊᓯᒪᑕᐃᑕ:ᑲᒡ ᐃᔨᒧᐅᓐ ᐊᓇᑐᔅᒐᐃᑕᑲᓄᒡ ᐊᓄᑕᐱᐃᒡ ᒐᒋ ᑐᐎᔅ ᒥᔦᑲᐳᐃᑕᑲᓄᒡ ᐊᓯᔭᔭᑎᓇᑲᓄᒡ ᐊᓐᑕ ᐅᔅᑲᒡ ᐊᓯᐱᒧᑕᒥᑲᒡ ᐊᓯᒪᑕᐃᑕ:ᑲᒡ ᐃᔨᒧᐅᓐ ᐊᓇᑐᔅᒐᐃᑕᑲᓄᒡ ᐊᔅᐱᑕᑲᓄᒡ᙮ ᓂᓯ ᒐ:ᑲᓐ, ᐊᑲ ᑎ:ᑲᒡ ᐊᓐᑕ ᑭᔅᑭᔦᐅᓐ ᐊᓐᑕ ᒐᒋ ᐱᒧᑕᑲᓄᒡ ᓂᓯ ᒐᐃᔅ ᓇᓴᐃᑲᓄᐤ ᐊᓐᑕ ᐊᓯᐱᒧᑕᒥᑲᒡ ᒐᒋ ᑎ:ᑲᒡ ᐃᔨᒧᐅᓐ ᐊᓯᒪᑕᐃᑕ:ᑲᒡ ᐊᓇᑐᔅᒐᐃᑕᑲᓄᒡ ᐎᓯᐋᐅᓐ, ᐊᓐᑕ ᒐᒋ ᑎ:ᑲᒡ ᐃᑕᐅᓂᒡ ᒧᔭᒻ ᓄᓇᐱᒃ ᐊᓐᑕ ᓴᓯᑲᓐ ᓇᐤ ᐃᔨᒧᐅᓐ ᐊᓯᒪᑕᐃᑕ:ᑲᒡ ᐊᓇᑐᔅᒐᐃᑕᑲᓄᒡ ᒐᒋ ᐊᐱᒋᑕᑲᓄᒡ᙮

ᐊᓐᑕ ᒐᒋ ᐎᒋᒋᔅᑕᑲᓄᒡ ᐊᓐᑕ ᐃᔨᒧᐅᓐ ᐊᓯᒪᑕᐃᑕ:ᑲᒡ ᐊᓇᑐᔅᒐᐃᑕᑲᓄᒡ ᐎᓯᐋᐅᓐ ᐊᓐᑕ ᑲᐃᓯᒋᑕᐸᑕᑲᓄᒡ ᐃᑎᓯᐋᐅᓐ ᑭᔭ ᑐᐎᔅ ᐊᐋᐃᒋᐋᑦ ᒐ:ᑲᓐ ᐎᐱᒻᐱᑕᑲᓄᒡ ᑭᔭ ᒐᐃᔅ ᓇᓴᐃᑲᓄᒡ ᐊᓯᐱᑯᓴᐃᒪᑲᓄᒡ ᒐᒋ ᐊᔅᒐᐃᑕᒡ ᐊᑐᐋ ᒋᔅᐅᒋᒪᑲᓐ ᐊᓐᑕ ᓂᑲᓄᒡ, ᐊᓐᒡ ᐊᒪᒧᐎᒡ ᐊᑐᔅᑲᔅᑕᒡ ᐃᔨᒧᐅᓂᔦᐤ ᐊᓐᑕ ᑲᒋᑕᐸᑕᒡ ᓂᓯᐎᒡ ᒐᒋ ᐃᓯᑐᔅᑲᔅᑕᑲᓄᐤ ᐊᓐᑕ ᓄᓇᐱᒃ: ᒪᒧ ᐎᒋᑐᔅᒐᒥᑐᓇᓄᒡ ᑭᔭ ᐊᔭᔭᑎᓇᑲᓄᒡ ᓂᔅᑯᒧᐅᓇ ᑭᔭ ᐋᑎᓯᐋᐅᓐ᙮ ᒪᒧ ᐎᒋᑐᔅᒐᒥᑐᓇᓄᒡ ᑭᔭ ᐊᔭᔭᑎᓇᑲᓄᒡ ᓂᔅᑯᒧᐅᓇ ᐊᓯᒋᑕᐸᑕᑲᓄᒡ ᐊᓐᑕ ᐋᐃᐱᔅᒋᔅ ᒐᒋ ᐊᐱᒋᑕᑲᓄᒡ ᐅᓴᒡ ᐊᓐᑕ ᑕᑐᐎᒡ ᒐ:ᑲᓐ ᒐᒋ ᐃᔅᐱᔦᐤ ᑭᔭ ᐊᓐᑕ ᒐᒋ ᓇᑲᑐᐋᐃᑕᑲᓄᒡ ᒪᒧ ᐊᑐᔅᑲᔅᑕᑲᓄᒡ ᒐᐃᓯᓇᑯᑕᑲᓄᒡ ᐊᔅᑯ ᒥᓄᐋᒡ ᑯᑎᒃ ᐊᑐᔅᒐᐅᓐ ᐎᒋᒥᑕᑲᓄᒡ ᐎᐃᑲᐳᐃᑕᑲᓄᒡ ᐊᓐᑕ ᐊᔅᒋᔅ᙮ ᒐᒋ ᐋᑎᓯᑕᑲᓄᒡ ᒐ:ᑲᓐ ᐊᓐᑕ ᐎᓯᐋᐅᓂᒡ ᐊᓐᑕ ᐊᑕᐃᑕᑲᓄᒡ ᓇᐅᔅ ᒐᒋ ᐱᑕᒥᑲᒡ᙮ ᔭᐱᒡ ᐊᔅᑎᒋᑕᑲᓄᒡ, ᐊᒪᒧᐎᒡ ᐃᔨᒧᐅᓐ ᐊᓇᑐᔅᒐᐃᑕᑲᓄᒡ ᑐᐎᔅ ᐃᔨᒧᐅᓂᔦᐤ ᒐᒋ ᐱᒧᑕᒡ ᒐᒋ ᒋᑕᐸᑕᑲᓄᐃᒡ ᐊᓐᑕ ᒐᒋ ᐅᒡ ᐋᐃᒋᐋᐃᒡ ᐊᔅᒋ ᒥᔦᐱᐃᒡ ᓄᓇᐱᒃ ᐃᔨᒧᐅᓐ ᐊᓯᒪᑕᐃᑕ:ᑲᒡ ᐊᓇᑐᔅᒐᐃᑕᑲᓄᒡ ᒐᐃᓯ ᐊᑐᔅᑲᐋᒐᓄᒡ᙮

ᐊᓐᑕ ᒥᒪᓐ ᐃᔨᒧᐅᓐ, ᐅᐋ ᒥᓯᓇᐃᑭᓐ ᐊᑕᐱᑎᒡ ᒧᔭᒻ ᒐᐱᒋᑕᑲᓄᒡ ᒐᒋ ᐅᒡ ᐊᑐᔅᑲᐋᒐᓄᒡ ᑭᔭ ᐊᐱᒧᑯᑕᒡ ᐋᒋᒋᐱᑕᑲᓄᒡ ᒋᒥᔅ ᐱ ᑭᔭ ᒋᐋᑎᓄᒡ ᑯᐸᒃ ᓂᔅᑯᒧᐅᓐ, ᒋᐋᑎᓄᒡ ᑯᐸᒃ ᓂᔅᑯᒧᐅᓐ ᑭᔭ ᓄᓇᐱᒃ ᐃᔅᒋᒪᐅᒡ ᐊᔅᒋᔅ ᑎᐸᐃᑎᒧᐅᓐ ᓂᔅᑯᒧᐅᓐ ᑲᒥᔦᓇᑕᐃᑎᓯᓇᓄᒡ ᑭᔭ ᐊᓐᑕ ᑯᑎᑲᒡ ᑲᑕᒡ ᐊᓐᑕ ᑲᔅᑎᒋᒪᑲᓄᒡ ᒐᐃᔅ ᐱᒧᑕᓄᒡ ᐊᓐᑕ ᒥ:ᔭᒻ ᒐᐃᔅ ᐊᑐᔅᑲᔅᑕᑲᓄᒡ ᐃᔨᒧᐅᓐ ᐊᓯᒪᑕᐃᑕ:ᑲᒡ ᐊᓇᑐᔅᒐᐃᑕᑲᓄᒡ ᐎᓯᐋᐅᓐ ᐊᓐᑕ ᓄᓇᐱᒃ ᑭᔭ, ᑐᐎᔅ ᒐᒋ ᒥᔦᐎᑲᐳᐃᑕᑲᓄᒡ ᑭᔭ ᒐᐃᓯᓇᑯᑕᑲᓄᒡ ᐊᓯᐱᒧᑕᒥᑲᒡ ᐊᓯᐋᐃᒋᐋᓄᒡ ᐊᓐᑕ ᐊᓯᒋᑲᐳᐃᑕᑲᓄᒡ ᐃᔨᒧᐅᓐ ᐊᓯᒪᑕᐃᑕ:ᑲᒡ ᐊᓇᑐᔅᒐᐃᑕᑲᓄᒡ ᒐᐃᔅ ᐊᑐᔅᒐᒥᑲᒡ᙮

Table of Contents

LIST OF ACRONYMS

COFEX-North – Environmental and Social Impact Review Panel

EQA – Environmental Quality Act

KEAC – Kativik Environmental Advisory Committee

KEQC – Kativik Environmental Quality Commission

KRG – Kativik Regional Government

GN – Government of Nunavut

IA – Impact assessment

IAA – Impact Assessment Act

IAAC – Impact Assessment Agency of Canada

JBNQA – James Bay and Northern Quebec Agreement

MELCC – Ministère de l'Environnement et de la Lutte contre les changements climatiques

NEQA – Northeastern Québec Agreement

NILCA – Nunavik Inuit Land Claims Agreement

NMR – Nunavik Marine Region

NMRIRB – Nunavik Marine Region Impact Review Board

NMRPC – Nunavik Marine Region Planning Commission

NNK – Naskapi Nation of Kawawachikamach

INTRODUCTION

In 2019 the Impact Assessment Act ("IAA") came into force, replacing the previous 2012 Canadian Environmental Assessment Act. The IAA outlines a process for assessing the impacts of major projects in Canada. This process places a particular attention on increasing public participation and transparency in impact assessments ("IA") led by Canada, improving participation of Indigenous Peoples, and reducing duplication of IA processes with a vision of "one project, one assessment". The latter is meant to translate into an increased collaboration between the Impact Assessment Agency of Canada, which is the federal body mainly responsible for assessments under the IAA and accountable to the Minister of Environment and Climate Change ("IAAC" or the "Agency"), and other jurisdictions having roles and responsibilities in assessing the impacts of development projects covered by the IAA. For Nunavik, this has provided an opportunity to revisit the issue of multiplication of environmental impact assessment processes in the mainland and in the Nunavik Marine Region ("NMR"), where the federal IA legislation adds to three existing processes:

1. the Provincial Environmental and Social Impact Assessment and Review process, which was established by the James Bay and Northern Quebec Agreement ("JBNQA") and applies to projects of provincial jurisdiction in mainland Nunavik. It is led by the Kativik Environmental Quality Commission ("KEQC").
2. the Federal Environmental and Social Impact Assessment and Review process, also established by the JBNQA. It applies to projects of federal jurisdiction in mainland Nunavik and is led by the Environmental and Social Impact Review Panel ("COFEX-North") and its Screening Committee.
3. the Development Impact Assessment Process which applies to projects in the NMR and flows from the 2008 Nunavik Inuit Land Claims Agreement ("NILCA")[1]. The Nunavik Marine Region Planning Commission (NMRPC) and, more importantly, the Nunavik Marine Region Impact Review Board (NMRIRB) play a direct role in this process.

It is in this context that a working group formed by representatives from the Makivik Corporation ("Makivik"), the Kativik Environmental Advisory Committee ("KEAC") and the Naskapi Nation of Kawawachikamach ("NNK") was created in 2020 (the "Working Group" or "WG") [2]. The objective of the Working Group was to determine the most appropriate way to implement the IAA in Nunavik. In particular, the Working Group was mandated to analyze the set of implementation options in the IAA to meet Canada's objective to reduce duplication of IA processes. These implementation options are the following:

[1] See Appendix A for further details on the JBNQA, the NILCA, their signatories, their IA processes and the responsible co-management boards.

[2] The authors wish to acknowledge the contribution of Annie Lamalice and Gordon Dominique in the WG's foundational work towards drafting this report.

- **coordination and cooperation** agreements;
- **delegation** of certain steps of the IAA process to other competent people, bodies or jurisdictions;
- **substitution** of the IAA process by another jurisdiction's process;
- constitution of a **joint review panel**.
- **non-application** of the IAA in lands subject to land claims agreements.

The Working Group set out to evaluate which of these implementation options ensures the upholding of the JBNQA, the Northeastern Quebec Agreement ("NEQA")[3] and the NILCA whilst optimizing resources, expertise and knowledge, and reducing unnecessary duplication of work by coordinating efforts when multiple IA processes apply.

As a first milestone, the Working Group tabled a preliminary report in November 2020 to establish contextual information about the treaty processes, the concerned organizations and boards, the history of process harmonization in Nunavik and the pending issues regarding such harmonization (see Appendix A).

This, the second report, is the result of the Working Group's analysis of the IAA implementation options. The analysis identifies how the IAA implementation options may be mobilized to support coordinated efforts with governments, co-management boards and regional organizations implicated in the Nunavik treaty processes. This report is divided in three main sections: methodology (Section 1); evaluation of the IAA implementation options (Section 2); evaluation results (Section 3); and final considerations and recommendations (Section 4). This report is also meant to assist the treaty signatories, including the IAAC as a federal agency, and the treaty co-management boards, with the basis for initiating a necessary dialogue on the next steps to improving the harmonization of IA processes in Nunavik.

When reading this report two points must be considered. First, due to the recognition of treaty rights in Section 35 of the 1982 Constitution Act, processes arising from the JBNQA and the NILCA take precedence over laws of general application, such as the IAA, in case of conflict. Second, the report's conclusions, which are technical by nature, are made without prejudice of any decision or orientation the Executives or Board of Directors of Makivik, the KEAC and the NNK may advise taking with regards to the application of the IAA in Nunavik.

[3] In 1978 the NEQA was signed by the same parties as the JBNQA with the addition of the Naskapis de Schefferville band (now known as the Naskapi Nation of Kawawachikamach). The NEQA was a complimentary agreement to the JBNQA and therefore set the Naskapis on the same footing as the Inuit and Cree with regards to land use and Rights and Title to the Naskapi sector north of the 55th parallel.

HISTORICAL CONTEXT

The multiplication of IA processes in Nunavik was first pointed out during the review of the Great Whale Complex Project in 1992. The Governments of Canada and Quebec, the Cree Regional Authority, the Grand Council of the Crees, Makivik and the Kativik Regional Government ("KRG") signed an agreement in principle to harmonize the environmental and social impact evaluation procedures triggered by this project, including those of the 1975 JBNQA. A public review support office was created to help establish harmonized impact study guidelines, jointly coordinate public hearings and analyze the impact study. Although this project was withdrawn in 1995, it demonstrated a joint effort to coordinate processes.

Additionally, between 1998 and 2012, the marine infrastructure projects in the 14 northern Inuit villages of Nunavik each triggered three IA processes: the provincial and federal JBNQA processes and the 1992 Canadian Environmental Assessment Act. For each of these projects, the two JBNQA boards responsible for the provincial and the federal assessment, respectively the KEQC and the COFEX-North, agreed to organize joint community consultations. Coordination efforts with the Canadian Environmental Assessment Agency, now the Impact Assessment Agency of Canada, were more complex and unfortunately did not succeed in speeding up the overall IA process nor improving its efficiency. Although the experience did improve relationships with federal partners, it did not lead to the implementation of a formal and systematic mechanism for collaboration.

A more recent project in Nunavik that triggered several IA processes, including that of the NILCA, the provincial JBNQA process and the 2012 Canadian Environmental Assessment Act, was the Hopes Advance Iron Mining project in 2012. The federal IA process under the JBNQA was not triggered. Once preliminary information was submitted by the project proponent, the Canadian Environmental Assessment Agency (now the IAAC) began its consultation with the community of Aupaluk, which is located near the proposed mine. This was done without coordinating with the processes of the JBNQA and the NILCA. In addition to creating confusion and concerns among community members and failing the JBNQA procedure by not triggering its federal process, this proposed major development project demonstrated the pending need for systematic coordination and harmonization in IA processes in the region. The mining project has been put on hold and no IA process has been completed to this date.

In 2015, Quest Rare Minerals began the IA processes for their Strange Lake Project, a portion of which (the mine itself) was located in the Naskapi-Inuit Area of Common Interest, in the southeastern portion of Nunavik near the Labrador border. In Nunavik, the 2012 Canadian Environmental Assessment Act and the provincial process under the JBNQA were both triggered, along with IAs under the responsibility of the Government of Newfoundland and Labrador, the Nunatsiavut Government and the Government of Quebec[4]. As with the Hopes Advance Iron Mining project, the COFEX-North was not triggered while the processes that were triggered seemed to operate independently. Nonetheless, some collaboration efforts were initiated by the Indigenous Nations impacted by the project in an attempt to streamline the processes, work together and share information. The project has been halted since 2017, but certainly stands out as another example of the need for greater coordinated and collaborative initiatives between the responsible IA bodies.

[4] The Quebec Government was involved in both the provincial IA process under the JBNQA and the IA process established in Title 1 of the Environmental Quality Act, which applies in Southern Quebec.

1 METHODOLOGY

The Working Group first studied the impact assessment processes in the JBNQA[5], the NILCA and the IAA. The objective of this work was threefold:

1. to secure a common understanding of the IAA implementation options (how many there are, how they are designated, what their key purposes are, how they are made available, etc.);
2. to increase and align the Working Group members' understanding of each of the four IA processes, both from textual and practical perspectives; and
3. to identify strengths and weaknesses of each IA process as well as similarities and differences between them, which in turn helped build a framework for analysing the IAA implementation options through a regional lens.

The Working Group applied the following four approaches of data collection, described in detail in the below sections: An analytical comparison of the treaty and IAA processes, exchanges of information with IAAC representatives, interviews with JBNQA and NILCA co-management boards, and the development of an evaluation template.

1.1 Comparison of JBNQA, NILCA and IAA Processes

Comparison work was undertaken to gain a comprehensive understanding of the IA processes laid out in section 23 of the JBNQA (both provincial and federal), section 7 of the NILCA, and the IAA, and to identify any similarities, discrepancies, questions regarding the practical application of each process, and preliminary observations regarding coordination opportunities. The comparison was performed by creating a detailed comparative table which was divided in five IA components:

	NILCA - NMR	JBNQA/NEQA Provincial Process	JBNQA/NEQA Federal Process	IAA
Overview				
Screening				
Assessment				
Final Decision				
Monitoring				

The four processes were analysed in terms of how these components were articulated, from the actual treaty text, and, when relevant and possible, from a practical point of view. Using that information, the similarities and differences between the processes were considered to identify any outstanding questions or issues. The main differences between the four IA processes were identified through this comparison work and *via* interviews with the JBNQA and NILCA and co-management boards. An overview of the table developed by the Working Group can be found in Appendix B and a list of the main differences between the four processes can be found in Appendix E.

[5] Chapter 14 of the NEQA included the NNK in the scope of application of the IA regime established under chapter 23 of the JBNQA. It is implied in the Working Group's analysis.

1.2 Exchanges of Information with IAAC Representatives

The exchanges with IAAC representatives were meant to gain a better understanding of the IAA implementation options and other more general aspects of the IAA. A presentation on the new Act and its implementation options was first given to some members of the Working Group by the IAAC representatives at an in-person meeting in March 2020. The information gathered at this presentation formed the basis of the Working Group's IAA Implementation Options description document (Appendix C).

Once the above-described comparative table was finalized, two lists of questions were developed to seek additional information concerning certain provisions of the IAA and the implementation options (respectively in June and July 2021 – see Appendix D). Many of the Working Group's questions concerned how the IAA should be interpreted and applied in different contexts and required advice from many different Agency departments, and in some cases legal review. For these reasons, the Agency has not been able to provide written responses to date and as a result, the analysis and findings presented in this report might vary pursuant to future precisions provided by the Agency.

1.3 Interviews with JBNQA and NILCA Boards

In order to answer the outstanding questions identified as part of the Working Group's comparison of the four IA processes, and to better understand how the processes described in the JBNQA and NILCA are applied in practice, the Working Group developed a list of questions adapted for each of the concerned boards, i.e. the COFEX-North and the KEQC for the JBNQA and the NMRPC and the NMRIRB for the NILCA. Videoconference meetings were organized to address these questions. This allowed the Working Group to present its comparative analysis, discuss certain observations with regards to the NILCA and JBNQA processes and learn from the boards about opportunities and challenges associated with the implementation of IA processes. It also provided an opportunity to present the implementation options and begin preliminary discussions regarding those most suited for Nunavik. Overall, these exchanges helped the Working Group to reconcile theory with practice in view of a more realistic evaluation of the IAA implementation options.

Unfortunately, the Working Group was unable to meet with the KEQC who provided their responses to the questions and information regarding the practical application of the provincial process arising from the JBNQA in writing.

The responses provided by the various boards were sometimes similar, sometime divergent. The content of this report reflects these variations by referring to "the boards" in case of similarities, and by pointing to specific board(s) in case of differences.

1.4 Development of an Evaluation Template

The final step towards the evaluation of the IAA implementation options by the Working Group was the development of an evaluation template that reflects the exchanges with the Agency and with the JBNQA and NILCA boards. The template consists of the three following questions:

A. What are the prerequisites for enacting the implementation option (e.g. administrative, contractual or legislative requirements, such as an agreement, a regulation, etc.), and who do they concern (IAA, land claims organizations, treaty boards, etc.)?

B. Does the implementation option show potential for addressing the issues flagged in the Working Group's preliminary report from 2020 (Appendix A) and as part of the Working Group's discussions with the boards in 2021, i.e.:

   - Local consultation fatigue (caused by repeated requests to take part in consultation processes);
   - Local confusion (caused by an overlap of various processes that entail different ways to evaluate a project, different authorities, different timings and the possibility of different final decisions);
   - Complexity of proponents' documentation (technical, voluminous, inappropriate language) or lack thereof;
   - Need to improve upon community awareness of the applicable processes and of the role they can have in relation thereto;
   - Delays in triggering treaty processes, notably caused by a lack of awareness of proponents and governmental agencies/departments.

   Note: In Section 2 (Evaluation of Implementation Options), if any of the above issues is omitted as part of the evaluation of a given IAA implementation option, it is because such option has no positive or negative effect on the issue.

C. Does the implementation option raise important considerations in relation to the differences that exist between the treaty regimes and the IAA regime (listed in Appendix E)?

2 EVALUATION OF IMPLEMENTATION OPTIONS

The evaluation includes five implementation options: the coordination and cooperation agreements, the delegation of certain steps of the IAA process to other competent people, bodies or jurisdictions, the substitution of the IAA process by another jurisdiction's process, the constitution of a joint review panel, and the non-application of the IAA in lands subject to land claims agreements. A sixth option provided in the IAA (modification of IAA requirements *via* regulations) was excluded from the Working Group's analysis, given the very limited information available on this specific option. For reference throughout the evaluation, an overview of the IAA process is provided in Appendix F.

2.1 Cooperation and Coordination Agreements (IAA section 114(1) c & f)

The cooperation and coordination agreements allow jurisdictions to coordinate activities and, where possible, timelines and the production of different documents (e.g., impact statement guidelines, public notifications, IA report, etc.). Section 114 of the IAA, subsection (1), paragraphs (c), (d), (e) and (f) establish the parameters of cooperation and coordination between jurisdictions. There are two types of such agreements: Framework agreements (s. 114(1)c) allow jurisdictions to establish parameters for different IA procedures to generally function together, regardless of the project at stake, and project-by-project agreements (s. 114(1)f) allow for the coordination, consultation, exchange of information and the determination of factors to be considered in relation to the assessment of the effects of projects of common interest.

2.1.1 What are the prerequisites for enacting the implementation option and who do they concern?

Cooperation and coordination agreements are between the Minister and jurisdictions, as defined in the IAA (s. 2). Treaty-based screening and impact assessment boards are included in such definition, but land claims organizations like Makivik and the NNK are not *de facto* included. Their recognition as a jurisdiction is conditional to an agreement with the Minister where the latter recognizes the land claim organization as a jurisdiction having powers, duties or functions in relation to impact assessments under the IAA. Such agreement must be authorized by federal regulations, which have not been established by Canada yet[6]. Therefore, cooperation and coordination agreements would currently need to be negotiated between the Minister and the NMRPC/NMRIRB/KEQC/COFEX-North. That said, Makivik, the NNK and the KEAC should be able to act as interveners in any negotiations of such kind, given Makivik and the NNK's land claims organizations status and the KEAC's role of preferential consultative body to responsible governments in the JBNQA territory when it comes to the formulation of laws and regulations relating to the environmental and social protection regime.

2.1.2 Does the implementation option show potential for addressing the issues flagged in the WG's preliminary report from 2020 and as part of the WG's discussions with boards in 2021?

Consultation fatigue, local confusion and complexity of proponent's documentation: Under a framework agreement, the Minister and concerned jurisdictions can agree to cooperate in view of streamlining engagement and consultations led by the IAAC, the boards and the proponent, facilitate

[6] At the moment of tabling this report, the IAAC was at the early stages of the consultation process leading to the development of the Indigenous Cooperation Regulations.

common requirements for documents as part of the IA guidelines (including requirements for appropriate format and content of documents to respond to communities' needs) and encourage the joint issuance of documents. This is the case for the Impact Assessment Cooperation Agreement Between Canada and British Columbia[7] (s. 5 & 8). Project-by-project agreements can provide for project-specific engagement and consultation plans, coordinated activities and decision-making timelines, as well as alignment, to the extent possible, of the issues and evaluation criteria to be considered as part of the assessment.

Community members' awareness and knowledge of the applicable processes: A cooperation and coordination agreement (either framework or project-by-project) could potentially include coordinated measures to grow communities' awareness of the various applicable processes, although this remains to be confirmed with the IAAC.

Timing for triggering treaty processes: Under a framework agreement, the Minister and concerned jurisdictions can agree to notify each other once one is aware of a project that may require an impact assessment pursuant to the IAA, the JBNQA or the NILCA. This is the case for the above-mentioned Impact Assessment Cooperation Agreement Between Canada and British Columbia (s. 4).

2.1.3 Does the implementation option raise important considerations in relation to the differences that exist between the treaty regimes and the IAA regime?

- *Time allotted for the assessment*: The end of the assessment phase consists of the issuance of the IA report by the assessment board. Timelines for finishing an IA report vary between the NILCA, the JBNQA and the IAA processes. A cooperation and coordination agreement would help align the timing of IA reports' publication. Such alignment would be pertinent especially considering that the NMRPC, the NMRIRB and the COFEX-North have indicated that it is good practice to send IA reports directly to impacted or interested communities and regional/local organizations, and that an uncoordinated release of reports would contribute to consultation fatigue and confusion.
- *Project certificate – alignment of conditions*: A framework agreement or a project-by-project agreement could secure proper dialogue between the Minister and the boards to mitigate the risk of discrepancies between a modification contemplated by the Minister to a project certificate under the IAA, and a certificate issued under the NILCA and JBNQA processes.
- *Final decision makers*: Under the treaty processes, the boards do not have final authority on the screening decision (except for the KEQC) nor the final approval decision. Therefore, to secure coordinated timing for issuing these decisions, it is the Working Group's understanding that a cooperation and coordination agreement with the Federal Minister of Environment (the decision-maker for the IAA process) would need to involve the final decision makers under the treaties (the competent Ministers under the NILCA process, the MELCC's Deputy Minister or the IAAC president under the JBNQA). One example worth noting is the *Nunavut Planning and Project Assessment Act* (Nuppaa), which provides for the joint exercise, by the responsible Ministers, of their powers and functions as part of an IA under such Act (Nuppaa, section 149).

[7] https://www.canada.ca/en/impact-assessment-agency/corporate/acts-regulations/legislation-regulations/canada-british-columbia-impact-assessment-cooperation/canada-bc-cooperation-agreement.html

2.2 Delegation (IAA section 29)

Delegation is a flexible option that is decided upon by the IAAC, who may delegate parts of the impact assessment of a project to one or more jurisdictions, bodies or persons. Delegation may target any task contained between the moment the IA is announced by the IAAC and the tabling of the IA report. It therefore excludes the screening and final decision-making stages. The IAAC remains responsible for the overall IA process and the final decision-making remains the prerogative of the Minister.

2.2.1 What are the prerequisites for enacting the implementation option and who do they concern?

The IAAC approves the delegation. The carrying out of any part of the IA under the federal Act can be delegated to any body, person or jurisdiction, including land claim organizations. It is the Working Group's understanding that the IAAC may approve delegation upon request to that effect by the body/person/jurisdiction who wishes to take on the delegated part of the process. Delegation may also be agreed upon within a project-by-project or framework agreement approach. Delegation is not possible when an IA is referred to a review panel by the Minister.

While nothing in the IAA seems to preclude the delegation of a given IA task to more than one body/person/jurisdiction, the Working Group understands based on exchanges with IAAC representatives that the Agency would review any such "multi-party delegation" to first determine and evaluate its practicality before allowing it. For instance, delegating the drafting of the final report might only be possible if the concerned jurisdictions were to co-draft it, so that a single report is delivered to the Minister.

2.2.2 Does the implementation option show potential for addressing the issues flagged in the WG's preliminary report from 2020 and as part of the WG's discussions with boards in 2021?

Local consultation fatigue: According to the information available at the moment, the screening of a project cannot be delegated by the IAAC. Therefore, mitigating consultation fatigue would only be partly achieved by delegating the consultations held for the actual assessment stage, excluding screening[8]. Further, for delegation to be truly effective in diminishing consultation fatigue, the IAAC should delegate its tasks (consultations, drafting of the IA report, etc.) to all boards involved. For example, if a project triggers all offshore and mainland processes, then the delegation should apply to the NMRIRB, the COFEX-North and the KEQC instead of, for instance, only delegating consultations to the NMRIRB but retaining responsibility for the mainland portion of such tasks, in parallel of the COFEX-North and KEQC.

Local confusion: Building on the experience of the Salluit and Kangirsuk marine infrastructure projects in 2002-2003, when partial delegation was put in place and made the COFEX-North the sole channel of communication with the proponent, delegation can be considered as a way to mitigate confusion by streamlining communications between boards, proponents and communities. Additionally, delegating to the JBNQA and NILCA boards the implementation of the Indigenous

[8] Because it is currently only the IAAC who systematically runs public consultations at the screening stage, while those consultations are not required in the NILCA and the JBNQA, there is in theory no risk of fatigue caused by an overlap of consultations at such stage. This said, most treaty boards support it as a best practice and their activities will likely evolve accordingly in the future. Therefore, mitigating consultation fatigue at the screening stage is part of the Working Group's analysis.

Engagement and Partnership Plan[9] could be considered as a potential way to decrease confusion amongst communities, as well as delegating the drafting of the IA report. As previously mentioned, several other parts of the overall IAA process remain outside of the scope of application of delegation (including screening, development of impact study guidelines, and final decision making), therefore local confusion at these stages must be tackled using other strategies.

Complexity of proponents' documentation: Considering that the development of the impact study guidelines (including requirements for appropriate format and content to respond to communities' needs) does not seem to be covered by the delegation option, other strategies must be considered to mitigate the issue of complex documentation.

2.2.3 Does the implementation option raise important considerations in relation to the differences that exist between the treaty regimes and the IAA regime?

- *Regional representation on assessment boards' membership*: Delegating the IAAC's consultations and the drafting of the IA report to the JBNQA and NILCA boards is likely to allow for a more direct, meaningful and impactful input from the region, as these tasks will be undertaken with a distinction-based approach informed by the Makivik/KRG appointed members who sit directly on the boards.
- *Evaluation criteria supporting the impact assessment*: The criteria to be considered as part of the IA report varies between the IAAC, the NMRIRB, the COFEX-North and the KEQC. For instance, the IAAC must specifically consider "the extent to which the effects of the project hinder or contribute to the Government of Canada's ability to meet its environmental obligations and its commitments in respect of climate change" (IAA s. 22(i)), any regional or strategic assessment undertaken under the IAA (IAA s. 22(o)), and "the intersection of sex and gender with other identity factors" (IAA s. 22(s)). Therefore, should the treaty boards be delegated a portion of the IA, they will likely need to include these external considerations as part of their work, which may call for additional capacity.

2.3 Substitution (IAA section 31)

Once the IAAC confirms that an IA is required, substitution of processes may be allowed by the Minister if they believe that another IA process would be an appropriate substitute. Substitution does not include final decision-making on project authorization, which remains the Minister's prerogative.

2.3.1 What are the prerequisites for enacting the implementation option and who do they concern?

Concerned jurisdiction(s) must submit a request for substitution to the Minister, who has until the Agency announces the beginning of the IA to make a decision (maximum 180 days after the online posting of the project description). A request for substitution by a jurisdiction is subject to a 30-day public posting period and may be commented by the public. To qualify for substitution, jurisdictions

[9] The Indigenous Engagement and Partnership Plan is the equivalent of a consultation roadmap. It is project-specific and is developed by the IAAC during the planning phase, in collaboration with Indigenous communities potentially impacted by a designated project. It outlines the groups that will participate in the impact assessment and how they will do so, including, where available, information on proponent-led engagement activities. It can inform community-specific consultation plans, where appropriate. For more information:
https://www.canada.ca/en/impact-assessment-agency/services/policy-guidance/practitioners-guide-impact-assessment-act/overview-indigenous-engagement-partnership-plan.html

must comply with certain conditions[10]. Substitution is not possible for projects which are referred to a review panel by the Minister, or that imply activities regulated under the *Canada Oil and Gas Operations Act* or the *Canada Transportation Act*.

The Working Group was informed by IAAC representatives that in addition to the requirements found in the Act, a jurisdiction is eligible for substitution if it operates under an IA legislation that is at least as stringent as the IAA, according to a variety of elements such as consultations, evaluation factors, consideration of Indigenous knowledge, etc. For instance, British-Columbia was able to obtain a substitution of the IAA with their own IA process, because their Environmental Assessment Office operates under BC's *Environmental Assessment Act*. It remains to be confirmed whether the NMRIRB and COFEX-North's processes, along with the NILCA and JBNQA enacting legislations, would meet such requirements. In comparison, the KEQC's process is found both in the JBNQA and in Quebec's Environment Quality Act.

The Working Group understands from exchanges with IAAC representatives that substitution of multiple processes may be possible, although it would be unprecedented. As previously mentioned, the Minister would need a guarantee that all processes being substituted will be at least as stringent as the IAA process, as well as a demonstration of the practicality of merging the treaty-based processes into a single substitution.

2.3.2 Does the implementation option show potential for addressing the issues flagged in the WG's preliminary report from 2020 and as part of the WG's discussions with boards in 2021?

Local consultation fatigue: Substitution can help mitigate consultation fatigue at the assessment stage (i.e., from the beginning of the impact assessment to the finalization of the IA report). Yet, fatigue caused by various consultations at the screening stage remains unaddressed, since substitution is only applicable once the IAAC has screened the project description and determined that an IA is required, notably by consulting the public.

Local confusion: The substitution of the IA may help decrease local confusion of processes at the assessment stage, by limiting the variations in consultation and evaluation methods and criteria, but screening and final decision making remain outside the scope of substitution. Therefore, local confusion observed at these stages must be tackled using other strategies. Additionally, if a project triggers both offshore and mainland processes, substitution should apply to both the offshore (NMRIRB) process, and the JBNQA processes for mainland components of the project, in order to increase the efficiency of substitution in mitigating local confusion.

Complexity of proponents' documentation: The Working Group understands that the substitution of the IAA process includes the development of the impact statement guidelines. This would allow the NILCA and JBNQA boards to mobilize their regional expertise and knowledge regarding the

[10] The following conditions stand out: jurisdictions must consider the factors set out in s. 22(1) IAA as part of their process (see above point on *evaluation criteria supporting the impact assessment*); federal authorities that are in possession of relevant specialist or expert information or knowledge must be given an opportunity to participate in the assessment; jurisdictions must have the ability to enter into an arrangement with any other treaty-based IA boards or Indigenous governing body that has powers, duties or functions in relation to an IA of a designated project; the public must be given an opportunity to provide comments on a draft report; and the final report must indicate, from among the effects set out in it, those that are adverse effects within federal jurisdiction and those that are adverse direct or incidental effects, and specify the extent to which those effects are significant. The Minister may establish any other conditions.

Nunavik communities' needs in terms of IA documentation and therefore develop guidelines for the impact statement accordingly. In practice though, considering the issue of Naskapi representation on the JBNQA boards, this advantage should be nuanced for projects in Naskapi territory.

Timing for triggering treaty processes: The substitution option itself is not a solution to the issue of timely trigger of the boards, especially since it is the interested jurisdictions who must make the request for substitution. Without timely communication of project proposals to treaty-boards, such request for substitution risks to be made passed the time-window which the Minister has to proclaim the substitution.

2.3.3 Does the implementation option raise important considerations in relation to the differences that exist between the treaty regimes and the IAA regime?

- *Regional representation on assessment boards' membership*: Substituting the JBNQA and NILCA processes for the IAA process (which includes the development of impact statement guidelines, the review of such impact statement, the public consultations and the drafting of the IA report) will allow a more direct input, and therefore an impactful influence, of the Makivik/KRG appointed members into the IAA process and its outcomes.
- *Evaluation criteria supporting the impact assessment*: The criteria to be considered as part of the IA report varies between the IAAC, the NMRIRB, the COFEX-North and the KEQC. For instance, the IAAC must specifically consider "the extent to which the effects of the project hinder or contribute to the Government of Canada's ability to meet its environmental obligations and its commitments in respect of climate change" (IAA s. 22(i)), any regional or strategic assessment undertaken under the IAA (IAA s. 22(o)), and "the intersection of sex and gender with other identity factors" (IAA s. 22(s)). Therefore, should the treaty boards' process be substituted for portions of the IAA process, they will likely need to include these additional considerations as part of their work, which may call for additional capacity.

2.4 Joint establishment of a review panel (IAA section 39)

The Minister may enter into an agreement or arrangement with a given jurisdiction that has responsibilities over a project, in view of jointly establishing a review panel and deciding on the panel's membership as well as the manner that the IA of the project is to be conducted by that panel.

2.4.1 What are the prerequisites for enacting the implementation option and who do they concern?

The option of establishing a joint panel becomes available when the Minister refers the IA to a review panel (instead of the IA being done by the Agency), if they believe it is in the public's best interest (which is defined under s. 36(2) of the IAA). The Minister also refers the IA to a federal panel in cases of projects regulated under the *Nuclear Safety and Control Act* or the *Canadian Energy Regulator Act*, although the Working Group understands that in these cases the option of a joint panel does not apply.

The joint establishment of a review panel, including the determination of its membership and mandate description, is done through an agreement between the Minister and the concerned jurisdiction(s). It remains to be determined whether a single agreement could be concluded with more than one jurisdiction to establish a joint panel. This question was asked in the context of a

transboundary project between the Northwest Territories and Nunavut which triggered both the Nunavut Planning and Project Assessment Act and the Mackenzie Valley Review Board's process and the Agency had not provided an answer at the moment of tabling this report.

2.4.2 Does the implementation option show potential for addressing the issues flagged in the WG's preliminary report from 2020 and as part of the WG's discussions with boards in 2021?

Local consultation fatigue: Forming a joint panel would help mitigate local consultation fatigue by merging the consultation efforts of the IAAC with those of the other jurisdictions, so that a single consultation approach, based on an agreed-upon consultation framework, is undertaken. That said, it would not address fatigue caused by consultations led for screening, since the joint panel would only be established once an IA is confirmed by the Agency.

Local confusion: A joint panel may help decrease confusion amongst communities by taking a unified approach towards consultations, evaluation criteria, as well as report drafting and sharing. However, this excludes screening and final decision making, and local confusion observed at these stages (e.g., due to different screening methods or different timings for communicating a decision) must be tackled using other strategies.

Complexity of proponents' documentation: The IAAC issues the impact statement guidelines before a joint panel is established. Other strategies must therefore be considered to mitigate the issue of complex documentation.

Community members' awareness and knowledge of the applicable processes: The joint panel could be helpful if it includes in its mandate an awareness raising and education component to mobilize local participation in the process. Furthermore, a joint review panel may address the issue of representation of specific communities or Nations on the treaty-boards when dealing with projects for which they would be directly impacted, by appointing them to the panel.

2.4.3 Does the implementation option raise important considerations in relation to the differences that exist between the treaty regimes and the IAA regime?

- *Regional representation on assessment boards' membership*: A joint panel would allow the IAA process to uphold the treaties' requirement of having members nominated/appointed by Makivik/KRG on the assessment board. As mentioned above, the joint panel could also include individuals from the communities directly impacted by a project, therefore ensuring localized (not only regional) representation.
- *Dialogue between assessment boards and decision makers*: The NMRIRB and the COFEX-North both have a procedural guarantee to have a dialogue with the Minister or Administrator in case the latter does not accept the board's recommendation of approval or rejection of a project. This guarantee must be upheld even if the treaty boards were to constitute themselves into a joint panel, meaning that they should still be able to interact with the decision-making body they respond to in view of a final decision.
- *Issuance of a project certificate and modification of certificate's conditions*: Under the NILCA, it is the NMRIRB who issues an authorization certificate. The NMRIRB must remain able to issue its own authorization certificate even in the case of a joint panel.

2.5 Non-application of Act (IAA sections 4 and 110)

Section 4 of the IAA states that the Act does not apply with respect to physical activities carried out wholly within treaty lands listed in Schedule 2 of the Act, however, no such lands currently appear in Schedule 2. Section 110 indicates that Schedule 2 may be modified *via* an order of the Governor in Council.

2.5.1 What are the prerequisites for enacting the implementation option and who do they concern?

Many Indigenous groups and Nations have shown interest in including their land claims territory to Schedule 2, although based on exchanges with IAAC representatives, implementing this option is currently not a priority for the IAAC and collaboration options are being prioritized as a first step. Jurisprudence has confirmed that Canada has the right to run its own evaluations to act upon its areas of jurisdiction, as long as it does not interfere with its treaty obligations. Therefore, non-application of the IAA may require the demonstration and guarantee of the other process' robustness with regards to meeting Canada's responsibilities in areas of federal jurisdiction.

IAAC representatives have indicated that at this moment they may recommend not to do an IA under the Act when they consider that a project's impacts can be controlled by existing mechanisms or because other appropriate assessment processes already exist. While this might be of interest for further analysis, the Working Group understands that such approach is different from the non-application option found under section 4 of the IAA. It is informal and made on a project-by-project basis, notably so that the IAAC can verify aspects of treaty processes which might be observed in practice but that are not articulated in writing in the treaties.

2.5.2 Does the implementation option show potential for addressing the issues flagged in the WG's preliminary report from 2020 and as part of the WG's discussions with boards in 2021?

Local consultation fatigue and local confusion: These issues are mitigated since an additional process would be avoided in its entirety, from screening to final decision. However, even if the case of non-application of the IAA, mitigating fatigue and confusion would be optimized with the coordination of NILCA and JBNQA processes for projects concerning both the NMR and the JBNQA territory.

Timing for triggering treaty processes: Non-application would be an efficient solution to the issue of uncertainty around the triggering of the JBNQA federal process. Such issue was raised as part of the Hopes Advance Iron Mining Project in 2012 and the Quest Rare Minerals project in 2015, when the federal government proceeded with the Canadian Environmental Assessment Act process instead of implementing the federal process established in section 23 of the JBNQA, despite the constitutional prevalence of treaty processes over laws of general application. For the NMRIRB, the issue of a timely trigger remains even with the non-application of the IAA, since it depends on decision-makers outside the IAAC who implement their own authorizing processes. Another strategy must therefore be developed to tackle this issue.

2.5.3 Does the implementation option raise important considerations in relation to the differences that exist between the treaty regimes and the IAA regime?

– *Regional representation on assessment boards' membership*: Non-application of the Act would allow the role of the treaty-boards to be fully recognized by permitting screening decisions as well

as final project approval/rejection to be informed strictly by their regionally grounded analytical and field work.

- *Subjected projects*: Non-application of the IAA would better support Nunavik's IA framework which provides for the undertaking of assessments in alignment with the local context and nature of the receiving social and natural environment. Indeed, while the IAA approach provides predictability with a predetermined project list, which is based on project type and physical and technical characteristics, the NILCA and JBNQA allow a greater consideration of the local socioeconomic and environmental context at the screening stage. Regional needs and priorities regarding development should be at the basis of the IA framework and guidelines.
- *Evaluation criteria supporting the impact assessment*: Non-application of the Act would increase chances of a final decision being aligned with the treaty boards' evaluation criteria, since final decision makers would refer to the boards' IA reports to make their decision without interference from a report informed by the IAA's evaluation criteria.
- *Dialogue between assessment boards and decision makers*: Non-application of the Act would ensure that all final decisions made by a federal decision-maker are informed by a dialogue with the NMRIRB/COFEX-North, as opposed to a final decision made under the IAA which is based on the IA report without an obligation for the Minister or Governor in Council to consult with the report's author in case of modification or rejections of the report's conclusions and recommendations.

3 EVALUATION RESULTS

According to the above evaluation, the option of cooperation and coordination agreements has the greatest potential to respond to the issues flagged in the Working Group's preliminary report as well as during interviews with the boards. In addition, it is the most practical and realistic option in the short and medium term, due to their flexible nature.

Choosing between a framework agreement and a project-by-project agreement will depend on whether development projects are expected in the short term in Nunavik and the NMR. Short term, development projects would benefit from a project-by-project agreement, especially considering that the IAAC is required to contact other competent jurisdictions during the planning stage of an IA in order to propose to work collaboratively. If no development projects are contemplated in Nunavik in the short term, working on a framework agreement first would enable collaborative foundations in preparation for future projects. The following contents can be taken as guiding examples:

Project-by-project agreement:

- Project-specific consultation plan;
- Coordinated public communications;
- Coordinated timelines for report delivery;
- Alignment of the issues and evaluation criteria to be considered as part of the assessment (to the extent possible).

Framework agreement:

- Mechanisms for timely communications between the Agency and the boards, starting from the reception of a project proposal and throughout the entire projects' life cycle;
- Cooperation principles that support streamlining of consultations led by the signatories and by the proponent;
- Joint requirements for communities' accessibility to and comprehension of documentation (e.g., format and language);
- Coordination principles for alignment of timelines, where possible;
- Eventually, a framework agreement could include preference for delegation, substitution or joint panel when possible.

In contrast with cooperation and coordination agreements, the options of delegation and substitution imply blind spots when it comes to addressing issues such as local consultation fatigue and confusion, proponents' extensive and highly technical documentation, and timely trigger of treaty processes. Although these options could indeed help streamline IA processes for the core evaluation phase of an IA (i.e., after the screening phase and until the tabling of the IA report), the fact that the IAA may need to be harmonized with up to three other processes renders this option less suitable for the region. It is still unclear how the IAA would implement delegation, substitution or even the creation of a joint panel, in an integrated manner with all triggered boards. Would an option be implemented independently with each board, or would the IAAC require a preliminary streamlining effort between the boards? Would the boards have the necessary expertise and capacity to undertake the IAAC's responsibilities as part of their own processes? Further discussions with the IAAC and the boards are required to answer these questions.

Finally, the option of non-application of the Act would have a direct positive impact on the issues of local consultation fatigue and confusion, in addition to being the most appropriate approach from a perspective of upholding the legal prevalence of land claims agreements over laws of general application. That said, the facts that the JBNQA is nearly 50 years old, and that the IAA process includes more modern IA details, make this option not as easily or quickly available, given procedural guarantees that the federal government may wish to obtain with regards to the treaty processes. Also, improving coordination between treaty boards, streamlining their processes where applicable, and encouraging community participation through increased awareness and more succinct documentation, remain pertinent objectives even in the case of the non-application of the IAA. Finally, opting for non-application may not currently be the preferred approach for the NNK who has faced challenges with representation on the JBNQA boards.

In light of the foregoing, cooperation and coordination agreements should be contemplated as the preferable option in the short-medium term, while non-application should be considered on a longer-term basis.

4 CONSIDERATIONS AND RECOMMENDATIONS

Coordination efforts between assessment boards trying to address the issue of duplication of IA processes in Nunavik have repeatedly occurred for over 30 years, often starting from scratch due to absence of a systematic coordination framework and ultimately costing the boards, the communities, the proponents, and the land claim organizations time, resources, and energy. To avoid repeating this in the future, it is recommended that clear and sustainable steps be taken towards either the non-application of federal impact assessment legislation in Nunavik, or its harmonization with the NILCA and JBNQA processes. Non-application will most likely require time, resources, political drive, and articulated policy developments. Harmonization measures must therefore be taken before non-application becomes a tangible option. Cooperation and coordination agreements (or a more flexible approach such as a memorandum of understanding) seem to be the most appropriate first step to establish a workplan with all interested bodies for testing best harmonization approaches and building on the experience gained from past attempts[11] at synchronizing IA processes. A technical working group composed of representatives from Makivik, the NNK, the KEAC, the NILCA and JBNQA boards and the IAAC could be created to support the development of such workplan. This would provide the necessary groundwork to make an informed decision about whether or not to utilize any IAA implementation option in a more formal framework agreement or opt for non-application of the IAA. Collaboration with boards from the Eeyou Marine Region and the Nunavut Settlement Area will also be important as a subsequent step to assess the most preferable long-term approach in an overlapping jurisdictions context.

Utilization of IAA implementation options should not be seen as overlooking the constitutional prevalence of treaties over the IAA. As long as the federal government imposes the Act on the territory of Nunavik and its Marine Region, there is a need to examine the best available and applicable methods to harmonize the IAA with the treaty processes. Implementation options should be considered a source of inspiration given some of their advantages, yet also considered as temporary measures while treaty processes are further articulated and coordinated in view of a full, stand-alone application of regionally-determined processes.

Lastly, independent of the approach chosen by Inuit and Naskapi authorities regarding how to implement the IAA in Nunavik, certain actions can already be contemplated going forward:

- Improve communication between the IAAC, the NMRPC, the NMRIRB, the COFEX-North, its Screening Committee and the KEQC as well as their administrators, so that each IA process can be triggered in a timely and coordinated manner when possible and applicable. Boards from overlapping jurisdictions should also be part of such communication (Nunavut Planning Commission, Nunavut Impact Review Board, Eeyou Marine Region Planning Commission and Eeyou Marine Region Impact Review Board).
- Improve upon local awareness and understanding of the various IA processes and of the role that community members can take at each stage, in view of increasing and improving local participation.

[11] See 2020 Preliminary Report in Appendix A. E.g., 1992 Great Whale Project/Agreement in Principle for harmonization between Canada, Quebec, Makivik, KRG, Cree Nation GVT and Cree Regional Authority; 1998-2012 infrastructure projects/joint consultations between COFEX & KEQC; 2003 Salluit & Kangirsuk marine infrastructures/concerted directives from COFEX & CEAA; 2014 Arctic Fibre Cable Project/Joint screening report NMRIRB-EMRIRB; etc.

This could be done as a stand-alone initiative or in preparation of a project-specific assessment. As part of the Working Group's interviews, the COFEX-North suggested to develop communication frameworks, in addition to project-specific consultation plans, to increase awareness and preparedness and respond to frequently asked questions (e.g., is the consultation for a nearby project? Is it for a strategic assessment? Is it for the screening or the evaluation phase, and what difference does it make?).

- Develop best practices guides or guidelines regarding IA documentation targeting communities, in particular proponents' consultation material and impact statements (language, format, communication methods, etc.). For example, the COFEX-North suggested that impact statements should be built around thematic issues rather than impacts only, so that the conclusions can be understood in their environmental and socio-cultural context rather than only addressing impacts from a technical standpoint.
- Update and make publicly available, when possible, NILCA and JBNQA boards' operational and procedural guidelines. This could be useful to compensate for missing aspects of treaty texts (especially the JBNQA) such as public consultation frameworks[12]. Ultimately, it would support the option of a non-application of the IAA by providing the federal government with a demonstration of the treaty processes' robustness.
- Develop a mechanism to systematically address the need for appropriate Naskapi representation in cases of projects located within the Naskapi Sector (area of primary interest and the area of common interest).
- Evaluate the interest of the JBNQA signatories in reviewing and updating the annexes in Section 23 of the JBNQA, notably in regard to the work done by a previous working group on this matter formed by representatives from the MELCC, Makivik and the KEAC in 2010. The JBNQA indeed states that both annexes must be reviewed by the Quebec government and the KRG every five years and that the JBNQA signatories may agree to update them in light of technological changes and experience with the assessment and review process. Both annexes have been unchanged since the adoption of the JBNQA in 1975[13].
- Plan for an independent study on the results of monitoring and the follow-up of the conditions established as part of past project authorizations. Such study could include a compilation of the various conditions established by treaty boards and the IAAC in a given time period as well as an evaluation of their enforcement (who was responsible, were the conditions respected, were remedial measures taken in case of default, etc.).

[12] For instance, the NMRIRB has a set of Guides available to the public that were developed in 2013, and which were being revised and re-organized into a new set of guides at the time of tabling this report.

[13] The COFEX-North shared with the Working Group its views on potential advantages of an update, such as avoiding challenges in interpreting whether or not modern projects fit in the project lists found in the annexes, as well as bringing the fundamental question of what projects should be subject, or not, to an assessment, beyond the screening committee level, and make that question one of regional interest.

CONCLUSION

The Working Group would like to reiterate that the analysis presented in this report is based on its own examination of the treaties applicable in Nunavik and the NMR and its understanding of their implementation. Furthermore, an important limitation of the Working Group's evaluation is that several questions remain to be answered by the Agency regarding some of the prerequisites and operational framework of each IAA implementation option. Additionally, much of the supporting regulations and policies associated with the IAA have yet to be established by the Agency at the time of tabling this report. A detailed analysis of such regulations and policies will need to be carried out when they're available in order to validate the preliminary conclusions of this report, though it is the Working Group's hope and expectation that this report will serve as a reference for informing the development of such regulations and policies in alignment with the JBNQA and NILCA IA regimes.

The participation of the boards was a key factor in better understanding how the treaties are implemented in Nunavik and their experiences in dealing with the multiplication of IA processes. Their full collaboration will be essential to achieve the overall objective of proposing solutions to increase and facilitate the coordination between the IAAC and the boards in view of streamlining IA processes in Nunavik.

The Working Group anticipates that this initial analysis and associated recommendations will serve as a foundation for a meaningful dialogue between the boards and the concerned treaty signatories, including the IAAC as an Agency of the federal government, since they all share the vision of sustainable economic development that respects the environment and the communities of Nunavik.

APPENDIX A

November 2020 Interim Report

MAKIVIK'S JOINT INITIATIVE WITH THE KEAC AND THE NNK
AND
THE TREATY-BASED IMPACT ASSESSMENTS REGIME IN NUNAVIK

Table of Contents

1. CONTEXT

In Nunavik, modern treaties provide for constitutionally protected processes related to impact assessments as agreed to by both Nunavik Inuit and the federal, territorial and provincial governments. In 2018 and 2019, the federal Bill C-69 aroused the interest of Nunavik organizations that are signatories to or that were created by treaties providing for impact assessment (IA) processes in Nunavik, namely the James Bay and Northern Quebec Agreement (JBNQA), the Northeastern Quebec Agreement (NEQA) and the Nunavik Inuit Land Claims Agreement (NILCA). These organizations participated in the various consultations on Bill C-69 offered by the federal government and organized themselves to gain a thorough understanding of the proposed legislative changes. In May 2019, a meeting brought together the Canadian Environmental Assessment Agency (now the Impact Assessment Agency of Canada, IAAC), Makivik Corporation, the Kativik Environmental Advisory Committee (KEAC), the Federal Environmental and Social Impact Review Committee (COFEX-North) and the Nunavik Marine Region Impact Review Board (NMRIRB). This meeting was intended to improve these organizations' comprehension of Bill C-69. The issue of the multiplication of IA processes in Nunavik and the impact of this multiplication on the implementation of the processes emanating from the JBNQA, the NEQA and the NILCA was already at the heart of their concerns.

Since the entry into force of the Canadian Impact Assessment Act (IAA) in August 2019, efforts have continued at the regional level to gain a thorough understanding of the possibilities for harmonizing the procedural features provided for in the IAA with the JBNQA, NEQA and NILCA processes, as well as the substitution possibilities of this federal process. The IAA has broadened the scope of the federal impact assessment, which could lead to an increase in projects subjected to federal review and cases of multiplication of procedures in Nunavik. On the other hand, this extended scope also includes a method to consider the social impacts and repercussions of a project on the rights of indigenous peoples. This new element could support harmonization with the processes provided for by the JBNQA, the NEQA and NILCA, which have considered social impacts and the rights of the Inuit and Naskapi since their creation.

The recent adoption of the IAA is seen as an opportunity to reflect and propose concrete solutions to the multiplication of IA procedures in Nunavik. This report is the first outcome of a working group formed by Makivik Corporation, the Naskapi Nation of Kawawachikamach (NNK) and the KEAC with the support of the Nunavik Marine Region Planning Commission (NMRPC) and the NMRIRB. The report includes:

- A description of the three IA processes provided for by the JBNQA, NEQA and NILCA (section 2). This includes a description of the bodies directly involved in such processes, namely the Kativik Environmental Quality Commission (KEQC), the COFEX-North, the NMRPC and the NMRIRB, as well as other implicated organizations, namely the KEAC, Makivik Corporation and the NNK;
- A historical overview of the interactions between the treaty-based IA processes and the federal impact assessments legislation and the issues associated with the multiplication of IA processes in Nunavik (section 3).

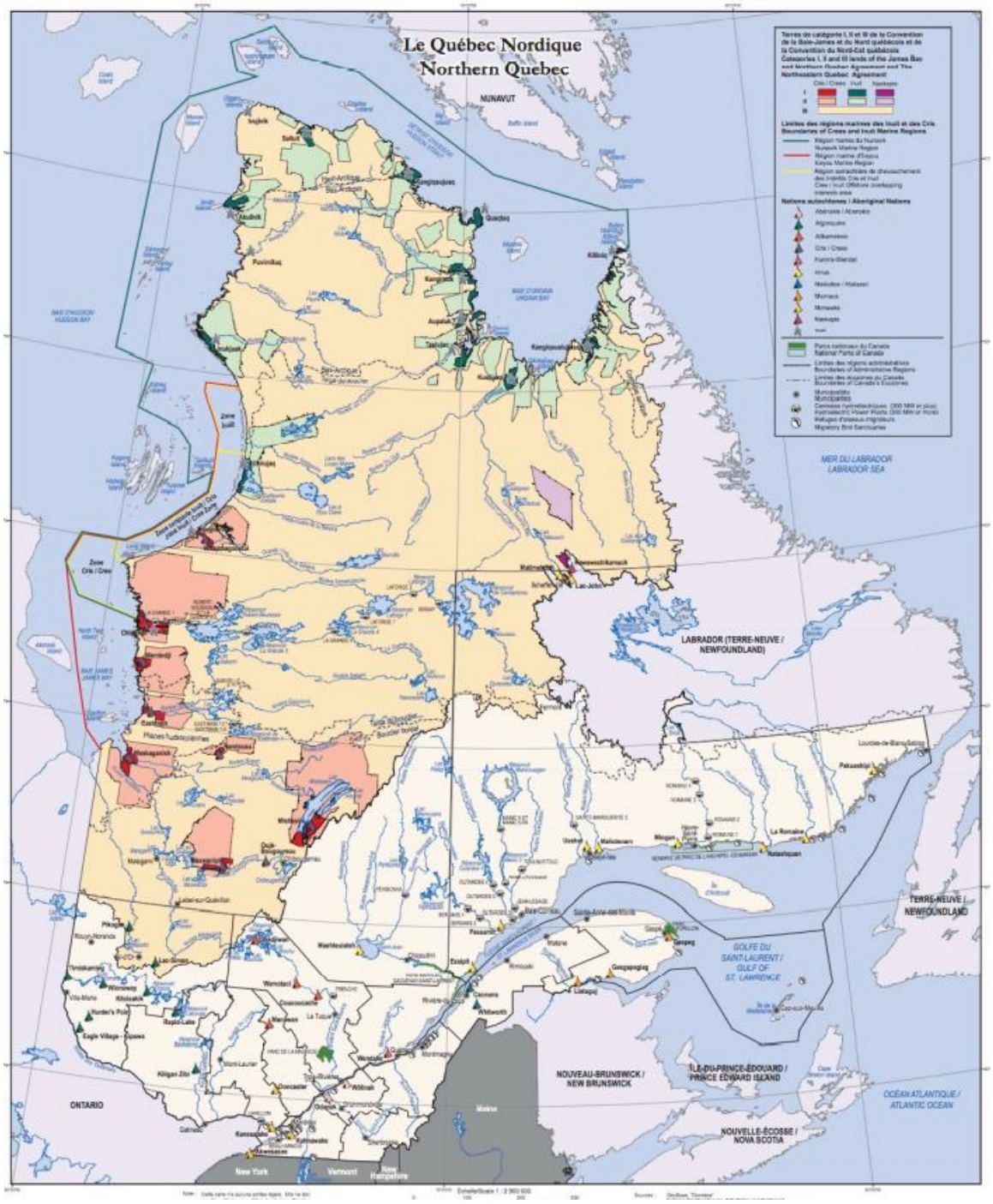
This report will lay the foundation for the subsequent analysis of the implementation tools provided for by the IAA. The objective of this second phase of analysis will be to determine what options for the implementation of the IAA would be best suited to Nunavik, and to enable impacted bodies to reflect on the options to prioritize. To achieve this, an analysis of implementation tools prescribed in the IAA will be carried out based on a range of development project scenarios defined beforehand. This will enable the assessment of interactions between the IAA and the other IA processes applicable in Nunavik and ensure that relevant stakeholders are prepared to coordinate their work in view of upcoming development projects in Nunavik and in the Nunavik Marine Region. It will also be a first step towards the adoption of an official position on the implementation of the IAA in Nunavik.

The ultimate objective is to discuss these conclusions and recommendations with the IAAC and to see them implemented within two proposed timeframes:

- In the short- and medium-term following completion of the report such that the concerned stakeholders can adopt a coordinated response should a development project in the region trigger several IA processes.
- In the long term, such that the required mechanisms, including the implementation options provided for by the IAA, be officially and systematically adopted and implemented by all stakeholders.

2. NUNAVIK'S TREATY-BASED IMPACT ASSESSMENTS REGIME: INTRODUCTION

The JBNQA was signed in 1975 by the government of Canada, the government of Quebec, three provincial government corporations (Hydro-Québec, the James Bay Energy Corporation and the James Bay Development Corporation), the Grand Council of the Crees of Quebec and the Northern Quebec Inuit Association (now known as Makivik Corporation or Makivik). It is the first modern treaty that was signed in Canada. In 1978, the NEQA was signed by the parties of the JBNQA as well as the Naskapis de Schefferville Band (now known as the Naskapi Nation of Kawawachikamach, or NNK) in order to extend the application of the JBNQA regimes to the Naskapi territory, including the environmental and social impact assessment and review regime found in section 23 of the JBNQA. The Map 1 displays the territory of application of the JBNQA and the NEQA. It must be noted that section 23 of the JBNQA applies in Nunavik, i.e. North of the 55th parallel.

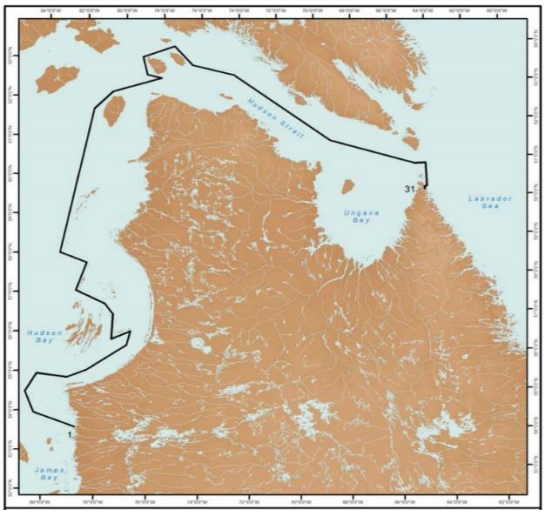


MAP 1: Territory of Application of the JBNQA and the NEQA[14]

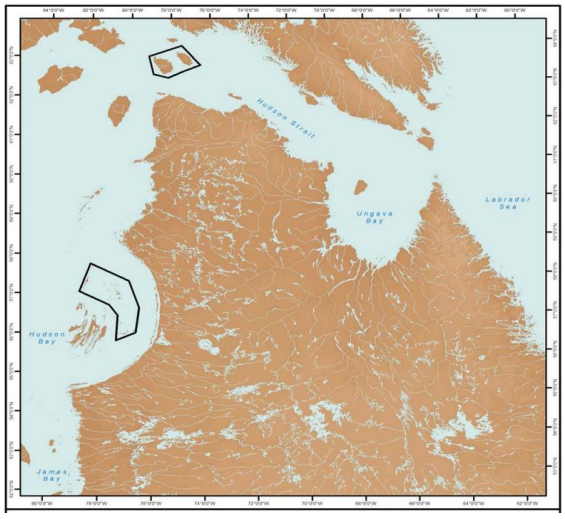
[14] Source: Environment Canada and Geolocation, March 2011 <https://www.ceaa.gc.ca/Content/2/5/8/258F8153-C185-4938-9B9AB3F06C3267CC/Carte_Le_Qu%E9bec_Nordique_31mars2011_Secured.pdf>

The Nunavik Inuit Land Claims Agreement (NILCA), signed by Makivik Corporation, the Government of Canada and the Government of Nunavut, came into force in 2008. It recognized Inuit's rights to the offshore, a necessary follow-up to the 1975 JBNQA. The NILCA established the Nunavik Marine Region (NMR) (Map 2) and granted ownership in fee-simple of 80% of all the islands of the NMR to the Inuit of Nunavik, including both surface and subsurface, in addition to other types of rights and responsibilities over land and resources use and management. Areas of shared rights and responsibilities on land and wildlife between the Inuit of Nunavik and other Indigenous Nations were also established by the NILCA. In particular, the Areas of Equal Use and Occupancy are shared with the Inuit of Nunavut (Map 3) and the Offshore Overlapping Interests Area is shared with the Cree of Eeyou Istchee (Map 4).

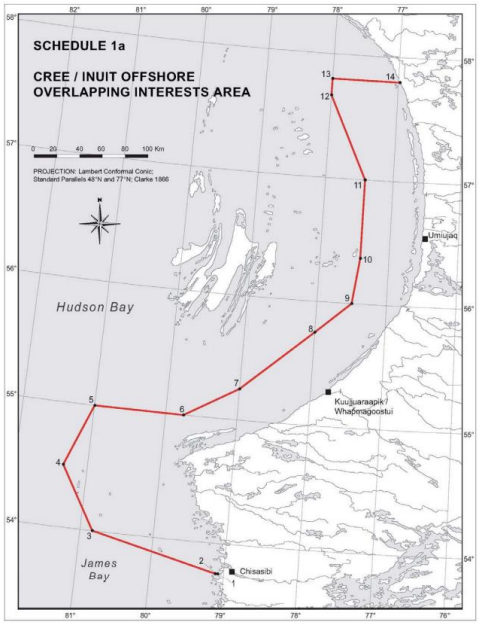
Sections 6 and 7 of the NILCA constitute the offshore component of the treaty-based impact assessments regime of Nunavik, by establishing a regional land use planning and impact assessment regime.



MAP 2: Nunavik Marine Region



Map 3: Areas of Equal Use and Occupancy



Map 4: Cree/Inuit Offshore Overlapping Interests Area

2.1 JBNQA: THE ENVIRONMENTAL AND SOCIAL PROTECTION REGIME[15]

Section 23 of the JBNQA establishes two environmental and social impact assessment and review procedures applicable only in mainland Nunavik:

- a provincial procedure for projects under Québec's jurisdiction (ex. mines, roads, etc.);
- a federal procedure for projects under Canada's jurisdiction (ex. wharfs).

Schedules 1 and 2 of Section 23 respectively identify categories of projects automatically subject to or exempt from the procedures. Projects that do not fall under categories contained in the schedules are considered to be grey-zone projects. Each grey-zone project is assessed on a case-by-case basis to determine whether it is subject to or exempt from assessment. Such assessment is done either by the Kativik Environmental Quality Commission (provincial jurisdiction) or the Screening Committee (federal jurisdiction), both established pursuant to section 23 and further described under points 2.2 and 2.3 below. Schedule 3 of Section 23 of the JBNQA sets out the basic elements that must compose an environmental and social impact statement, while section 23 establishes the guiding principles that must be considered by the concerned assessment committees established under Section 23 and by the responsible governments, in the context of their duties under the environmental and social protection regime; including, but not limited to:

- Protecting Inuit, Naskapi and Cree people;
- Minimizing the environmental and social impacts by developmental activity affecting the region;
- Protecting hunting, fishing and trapping rights of Inuit, Naskapi and Cree people;
- Protecting wildlife resources, biophysical environment and ecological systems;
- Involving the Inuit, Naskapi, Cree and other inhabitants of the Region in the application of the procedure;
- Respecting rights and interests of non-Native people; and
- Respecting the right to develop, in accordance with the provision of the Agreement.

2.2 The Provincial Process

For projects in areas of provincial jurisdiction (ex. mines, roads, etc.) subject to the environmental and social impact assessment and review procedure under Section 23 of the JBNQA, the provincial administrator is the ultimate responsible authority. As of the date of this report, the provincial administrator is the Deputy Minister of the Ministère de l'Environnement et de la Lutte contre les changements climatiques (MELCC).

The procedure, which is also found in the Quebec's Environment Quality Act, establishes a series of steps a number of which are performed by the Kativik Environmental Quality Commission (KEQC). Created pursuant to Section 23 of the JBNQA, the KEQC is an independent body from the MELCC. It is composed of nine members: The Kativik Regional Government appoints four members, of whom at least two are either Inuit, or an Inuk and a Naskapi, and Quebec appoints four members. In addition, a chairman is appointed by Québec which person must be acceptable to the Kativik Regional Government.

The KEQC reviews development projects in Nunavik referred to it by the provincial administrator. At the outset of the procedure, it analyzes the preliminary project description and, if applicable, prepares a notice for the project's exemption from the procedure or prepares directives on the required scope of the impact statement to be done by the project proponent. In both cases, it transmits its decisions to the provincial administrator. Next, the KEQC analyzes any impact statements referred back to it and may hold public consultations with the communities concerned by the projects. Its decisions to authorize projects with or without conditions, or not, are transmitted to the provincial administrator, who is responsible for implementing it. If the administrator does not accept the KEQC's

[15][15] The descriptions of the JBNQA section 23 as well as the provincial and federal environmental and social impact assessment and review procedures are taken from the Kativik Environmental Advisory Committee's website (https://keac-ccek.ca/en/procedures-under-the-jbnqa/)

decision, the administrator may only modify it, change it or decide otherwise with the prior approval of the provincial minister of the environment. The final decision is transmitted to the project proponent.

2.3 The Federal Process

For projects in areas of federal jurisdiction (ex. wharfs) subject to the environmental and social impact assessment and review procedure under Section 23 of the JBNQA, the president of the IAAC, in his/her capacity as the federal administrator, is the responsible authority. In Nunavik, two bodies support the federal component of the environmental and social protection regime: the Screening Committee and the Environmental and Social Impact Review Panel (COFEX-North).

The Screening Committee is responsible for determining whether projects not appearing in schedules 1 and 2 of Section 23 of the JBNQA and considered grey-zone projects are subject to or exempt from the procedure. It has four members: two appointed by the Government of Canada and two by the Kativik Regional Government. Following analysis of projects, the Screening Committee transmits its recommendations to the federal administrator who is responsible for all final decisions.

COFEX-North is responsible for reviewing projects under federal jurisdiction that are subject to the procedure. It has five members: three appointed by the Government of Canada and two appointed by the Kativik Regional Government. The chairperson is appointed by the Government of Canada. Following its analysis, COFEX-North transmits its recommendations to the federal administrator regarding whether projects should be authorized with or without conditions, or not. The federal administrator is responsible for all final decisions and for transmitting these to the project proponents. If the Federal Administrator is unwilling or unable to accept any recommendations of the COFEX-North or wishes to modify such recommendations they shall, before deciding or, as the case may be, advising the proponent, consult with the COFEX-North to explain their position and discuss it with the COFEX-North.

2.4 NILCA: THE LAND USE PLANNING AND IMPACT ASSESSMENT REGIME

As previously stated, Sections 6 and 7 of the NILCA constitute the main offshore component of the treaty-based impact assessment regime of Nunavik: section 6 establishes the NMR's regional land use planning process and section 7, the impact assessment process. Any development project as well as certain other activities proposed in the offshore must undergo the planning process as a first step, followed by the impact assessment process.

Land Use Planning

The primary purpose of land use planning in the NMR, which is framed by section 6 of the NILCA, is to protect and promote the existing and future well-being of those persons and communities residing in or using the NMR, taking into account the interests of all Canadians while devoting special attention to protecting and promoting the existing and future well-being of Nunavik Inuit and Nunavik Inuit Lands. The objectives of the planning processes are to develop planning policies, priorities and objectives regarding the conservation, development, management and use of land in the NMR and to prepare and implement a land use plan (LUP) which is based on such policies, priorities and objectives and which will guide and direct resource use and development in the NMR. It is the Nunavik Marine Region Planning Commission (NMRPC), an institution of public government established by the NILCA, that has the responsibility of developing and implementing the LUP.

In terms of membership, the number of members of the NMRPC and its composition may vary, but the Government of Canada and the Territorial Government each recommend the appointment of at least one (1) member and Makivik proposes a number of members equal to the total number of members recommended by the government. The members of the NMRPC are appointed by the Minister of Crown-Indigenous Relations and Northern Affairs based on the above recommendations and proposals.

Land use planning in the NMR is closely tied with the impact assessment process established under section 7 of the NILCA. Indeed, development projects must first be evaluated by the NMRPC to validate their compliance with the LUP before the impact assessment process established by section 7 of the NILCA gets triggered.

Impact Assessment

The impact assessment process established under section 7 primarily rests on the Nunavik Marine Region Impact Review Board (NMRIRB), an institution of public government established by the NILCA. Its primary functions include screening project proposals and determining whether or not an impact assessment under section 7 is required; undertaking such assessment and reviewing the ecosystemic and socio-economic impacts of project proposals; determining whether project proposals should proceed and under what terms and conditions; and monitoring projects in accordance with the provisions of section 7. The NMRIRB is composed of five members: Three members are appointed by Canada, two of whom being first nominated by Makivik; one member is appointed by the Government of Nunavut; and a chairperson is appointed by Canada in consultation with the Government of Nunavut, based on nominations provided by the four appointed members. In the nomination and appointment of a chairperson, preference is given to Nunavik residents where candidates are equally qualified.

The primary objective of NMRIRB in carrying out its functions is at all times to protect and promote the existing and future well-being of the persons and communities residing in or using the NMR, and to protect the ecosystemic integrity of the NMR. The NMRIRB also takes into account the well-being of residents of Canada outside the NMR.

The trigger of a project screening by the NMRIRB happens when, upon confirmation of compliance with the LUP, the NMRPC transmits the project to the NMRIRB[16]. Not all projects are subject to the impact assessment process: Projects listed under Schedule 7-1 are indeed exempt from the NMRIRB's screening, unless the NMRPC still decides to transmit a project proposal to the NMRIRB for screening because it has concerns respecting its cumulative impacts in relation to other development activities in the planning region. At the screening stage, the NMRIRB may recommend that the proposal be approved without a review, with or without specific terms and conditions to be attached to any approval; that the proposal be subject to an impact review according to the NILCA; that the proposal be returned to the proponent for clarification; or that the proposal be modified or abandoned due to its unacceptable potential adverse impacts.

The NILCA defines the circumstances under which the responsible minister[17] is bound or not by the NMRIRB's recommendations as well as the conditions that apply should he/she diverge from them. If, pursuant to such conditions, the responsible minister confirms that a project should be subject to an impact assessment, he/she has the option of returning the project for review by the NMRIRB under section 7.5 NILCA or by a panel under the authority of the Federal Minister of the Environment (such panel being subject to the conditions of section 7.6 NILCA). For a project proposal within the NMR, the federal Minister of the Environment shall be free to appoint members to a panel in accordance with the Minister's general practice, except that at least one quarter of the panel members shall be appointed from a list of nominees given to such Minister by Makivik, and at least one quarter from a list of nominees given to the Minister by the appropriate Nunavut Government Minister (such nominations can include candidates who are already members of NMRIRB). When a project proposal would take place both inside the NMR and an adjacent area used by another Indigenous Nation, at least one quarter of the panel members shall

[16] The NMRPC's LUP is under development at the time of submitting this report. In this context, and pursuant to section 7.3.5 of the NILCA, project proposals are referred by the NMRPC directly to the NMRIRB for screening.

[17] There can be more than one responsible minister. For instance, a project can trigger various federal departments' responsibilities, such as fish and fish habitat protection (Department of Fisheries and Oceans) and species at risk (Environment and Climate Change Canada), and also trigger the Government of Nunavut's responsibilities (for projects of territorial jurisdiction).

be appointed from nominees of Makivik and the other relevant Indigenous Nation, in accordance with any agreement between Makivik and such other Indigenous Nation.

The impact statement guidelines provided to the promoter will be determined by the entity in charge of the review. In the case of a review by a panel, the NMRIRB reviews the guidelines established by such panel. Upon completion of the impact review, the NMRIRB or the panel delivers its recommendations to the competent minister, although a panel's report will first be reviewed by the NMRIRB. Once again, the NILCA defines the circumstances under which the competent minister is bound or not by the NMRIRB or the panel's recommendations as well as the conditions that apply should he/she diverge from them.

The authorization certificate is delivered by the NMRIRB. It includes the conditions to be followed by the proponent and, where applicable, the details of the monitoring program that must be put in place.

Areas of Overlapping Rights and Responsibilities

Four additional land use planning and impact assessment bodies play a role in the offshore areas where Nunavik Inuit share rights and responsibilities with the Crees of Eeyou Istchee and the Inuit of Nunavut. In the Joint Zone of the Offshore Overlapping Area of Interests (Map 4), the NMRPC and the NMRIRB play their role equally and jointly with their Cree counterparts, the Eeyou Marine Region Planning Commission and the Eeyou Marine Region Impact Review Board. In the Areas of Equal Use and Occupancy (Map 3), the NMRPC and NMRIRB's counterparts for the Inuit of Nunavut are the Nunavut Planning Commission and the Nunavut Impact Review Board

2.5 ADDITIONAL STAKEHOLDERS OF THE JBNQA & NILCA IMPACT ASSESSMENTS REGIME

In addition to the review bodies mentioned above and which are directly implicated in the JBNQA and NILCA impact assessment processes (i.e. KEQC, Screening Committee and COFEX-North for the JBNQA; NMRPC and NMRIRB for the NILCA), the following stakeholders must be taken into consideration when approaching and throughout such processes.

Kativik Environmental Advisory Committee (KEAC)

The KEAC was established pursuant to Section 23 of the JBNQA. It is a tripartite body composed of nine members: three appointed by the Kativik Regional Government, three by the Québec Government and three by the Government of Canada. It is a consultative body to responsible governments in matters relating to the JBNQA's environmental and social protection regime. More particularly, its mandate includes to:

- Act as a consultative body to responsible governments for legislation and regulations relating to the environmental and social protection regime, and the administration and management of the regime in Nunavik;
- Make recommendations concerning legislation, regulations and other measures related to environmental and social protection;
- Examine environmental and social impact assessment and review mechanisms and procedures;
- Study major issues relating to the implementation of the environmental and social protection regime as well as the land use regime;
- Serve as a link for the residents of Nunavik and provide support to the Kativik Regional Government and northern villages, and the NNK when necessary, through the preparation of briefs and the delivery of technical assistance.

Makivik Corporation

Makivik Corporation (Makivik) is the birthright ethnical organization that represents approximately 12 000 Inuit of whom the majority live in 14 coastal communities in Northern Québec north of the 55th parallel. Makivik's mandate,

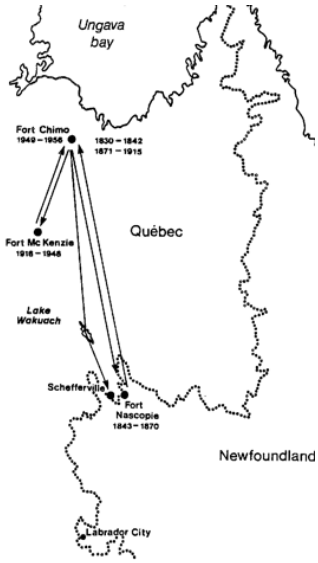
which originally stems from the JBNQA, is to speak on behalf of Nunavimmiut with the goal of protecting and promoting the rights, interests and financial compensation provided by the JBNQA and the NILCA. This includes distinct roles and mandates such as ensuring the integrity of the processes established in the JBNQA and the NILCA (such as the impact assessment processes) and appointing representatives to both the JBNQA Implementation Negotiations Office and the Implementation Committee for the NILCA, protecting the Inuit language and culture and the natural environment and wildlife, owning profitable business enterprises and generating jobs, ensuring social economic development and improving housing conditions. In carrying out its mandate, Makivik works within Nunavik and the NMR with the main organizations created as a result of the JBNQA and the NILCA, as well as with the provincial and federal governments. Makivik also works with fellow Inuit from across Inuit Nunangat as part of the national Inuit political process, formally represented by Inuit Tapiriit Kanatami (ITK). At the circumpolar level Makivik is a member of the Inuit Circumpolar Council.

Naskapi Nation of Kawawachikamach

The Naskapi Nation of Kawawachikamach (NNK) is a First Nations community located approximately 12 km northeast of the town of Schefferville, near the Quebec-Labrador border. The Naskapis were a nomadic people who, for generations, followed the caribou herds from the Hudson Bay in the west to the Labrador Coast in the east, and from the southern coast of Ungava Bay in the north to the vicinity of Labrador City in the south. Caribou have always been at the centre of the Naskapi traditional way of life and spirituality and Naskapis still rely on caribou for meat and perpetuating its culture and traditions.

Between the mid-1800s and mid-1900s, Naskapis were subjected to several major relocations, including to Fort Chimo, Fort Nascopie and Fort McKenzie solely for the commercial needs and interests of the Hudson's Bay Company.

From 1900 to 1940, the decline of the caribou population, along with pressures of the fur trade, famine and disease, threatened the very existence of the Naskapi people. In 1956, they moved from the Fort Chimo area to the recently founded iron-ore mining community of Schefferville. After relocating a few more times within the Schefferville region, on January 31, 1980, Naskapis voted overwhelmingly to relocate to Kawawachikamach, and between 1980 and 1983 Kawawachikamach was built largely by Naskapis. Kawawachikamach is the only Naskapi community.

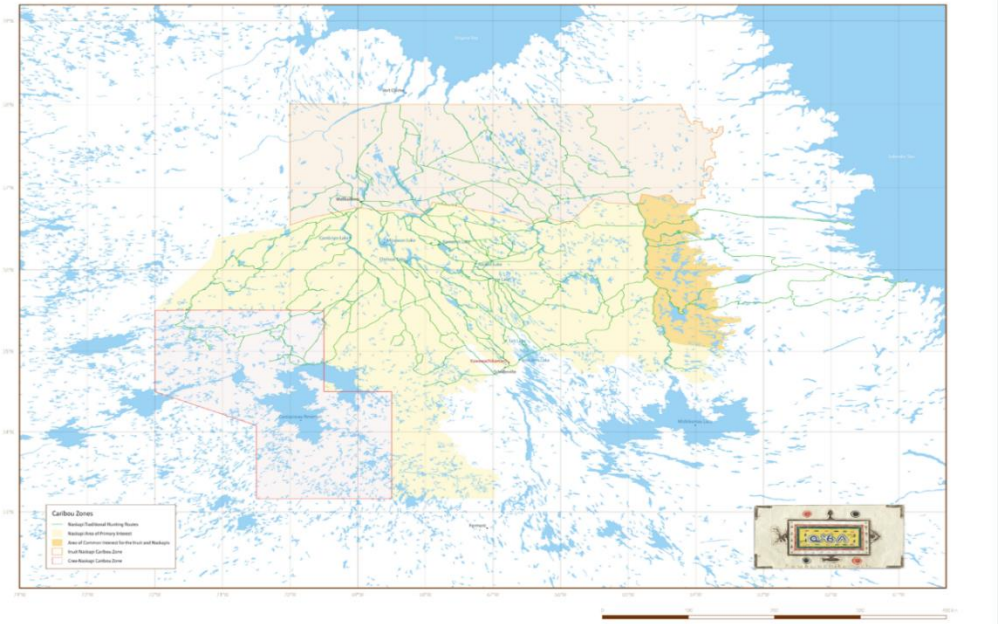


MAP 5: Relocation of Naskapi from Mid-1800s to Mid-1900s

Although Naskapis were not signatories to the 1975 James Bay Northern Quebec Agreement (JBNQA), they were involved in the negotiations leading up to it and the parties of the JBNQA accepted the legitimacy of the Naskapi claims. In 1977, the parties of the JBNQA and the Naskapi entered into an Agreement-in-Principle to negotiate an agreement. On January 31, 1978, the Naskapis entered into the Northeastern Québec Agreement ("NEQA"), a

modern treaty, within the meaning of s. 35 of the Constitution Act, 1982. As such, its provisions are mandatory and binding on Québec and Canada, and the rights granted therein to the Naskapis are constitutionally protected.

Both the NEQA and JBNQA establish the land regime for the territory. They also delineate the Caribou Zones and the Naskapi Sector which includes the Naskapi Area of Primary Interest and the Area of Common Interest, a portion of the territory the Naskapis share on equal terms with the Inuit (Map 6).



MAP 6: Caribou Zones and the Naskapi Sector

3. INTERACTIONS WITH FEDERAL IMPACT ASSESSMENTS LEGISLATION – AN OVERVIEW

History

The problem of multiplication of IA processes in Nunavik was first pointed out during the review of the Great Whale Complex Project. On January 23, 1992, the governments of Canada and Quebec, the Cree Regional Authority, Makivik Corporation, the Kativik Regional Government and the Grand Council of the Crees of Quebec signed an agreement in principle to harmonize the environmental and social impact evaluation procedures for the Great Whale Complex Project. The agreement was drawn up to avoid duplication of work between the various committees and commissions concerned while ensuring that each body retained its independence. The Great Whale Complex Project Public Review Support Office was created to help committees and commissions develop a set of harmonized guidelines, jointly hold public hearings during the winter of 1992, and analyze the impact study until the project was withdrawn in 1995.

Between 1998 and 2012, the marine infrastructure projects in the 14 northern villages of Nunavik each triggered three IA processes, namely the provincial and federal processes provided for by the JBNQA and the NEQA, and that of the Canadian Environmental Assessment Act (CEAA 1992). For each of these projects, the presidents of the COFEX-North and the KEQC agreed to organize joint consultations. The coordination of COFEX-North's activities with the CEAA process was, however, more complex to put in place, as explained in the following paragraphs.

In 1999, the COFEX-North recommended that Phase I of the Kangiqsualujjuaq Marine Infrastructure Project be authorized. In its recommendation, the COFEX-North specified that this wharf project had been the subject of dual federal IA procedures (Chapter 23 of the JBNQA and CEAA 1992). In this regard, the COFEX-North recommended that when examining the next maritime infrastructure project, the procedures be harmonized under the authority of the bodies established by the JBNQA, considering the precedence of the JBNQA on CEAA and its constitutional protection.

A pilot project was then carried out as part of the Quaqtaq marine infrastructure project in 2000 to test a mechanism for harmonizing the activities of COFEX-North and the Canadian Environmental Assessment Agency (CEAA). A second pilot project was launched as part of Umiujaq's maritime infrastructure project IA. The objectives were:

- Speed up the IA process for the Umiujaq marine infrastructure project;
- Reduce costs and time spent on IA for the Umiujaq project;
- Eliminate misunderstandings and confusion;
- To satisfy the concerns of the promoter (the Makivik Corporation) concerning the multiplication of processes.

A tripartite public consultation was held in Umiujaq in February 2001. It was organized jointly by representatives of the COFEX-North, the CEAA and the KEQC. In its report on the IA for the Umiujaq marine infrastructure project, COFEX-North considered that the pilot project had not succeeded in speeding up the process, nor in improving its efficiency, but agreed that this attempt would contribute in identifying short- and long-term solutions to improve the federal IA process in Nunavik. Another positive aspect of the pilot project raised by the COFEX-North in its report was the development of better collaborative relationships with federal partners, an asset for improving the application and coordination of IA processes in Nunavik.

Following the Quaqtaq and Umiujaq pilot projects, the IA for the Salluit and Kangirsuk marine infrastructure projects in 2002-2003 benefited from a concerted directive drafted by the COFEX- North and the CEAA. The coordination agreement also provided for the synchronization of the IA stages and made the COFEX-North the sole communication channel with the promoter. A partial delegation was thus put in place, following lengthy talks. This partial delegation was maintained for subsequent maritime infrastructure projects, as evidenced by review reports such as the one submitted in 2007 under phase II of the Quaqtaq maritime infrastructure. This report mentions that the delegation, in accordance with subsection 17 (1) of the CEAA led to an effective coordination of the JBNQA and CEAA processes[18].

In 2012 and 2013, the Deception Bay wharf and sediment management project was subjected to several IA processes. Renewed efforts were then necessary to coordinate the different processes. A new version of the CEAA was adopted in 2012 and the process provided for by the NILCA, which came into force in 2008, was then in its beginnings. Throughout the process, the COFEX-North exchanged information and held meetings with other federal or provincial regulatory authorities involved in the assessment of the project, in particular the Fisheries and Oceans Canada (DFO), Transport Canada (TC), the KEQC and the NMRIRB. Representatives of DFO and TC participated in the consultations organized by COFEX-North in Salluit and Kangiqsujuaq in 2013, while representatives of the KEQC and the NMRIRB attended as observers. To this date, this project was the last examined by the COFEX-North.

[18] FINAL REPORT to The Federal Administrator under section 23 of the James Bay and Northern Quebec Agreement and SCREENING REPORT prepared for the Federal Authorities under the Canadian Environmental Assessment Act, MAY 2007. Environmental and Social Evaluation of the Marine Infrastructure Project at Quaqtaq – Phase II

Efforts to coordinate federal processes for marine infrastructure projects and the Deception Bay wharf and sediment management project have not led to the implementation of a formal and systematic mechanism. The Hopes Advance Iron Mining project of the Oceanic Iron Ore Corporation is a good illustration of this. When preliminary information was submitted for this project in 2012, three processes were triggered: the provincial JBNQA process, the NILCA process, and the CEAA (2012) process. The CEAA then began a consultation process in the community of Aupaluk without attempting to coordinate with the other processes, nor even to inform in a prior and coordinated manner the other bodies responsible for the review processes specific to Nunavik or regional organizations. This created confusion and concern among the residents of Aupaluk, a community located near the proposed mine site. This case of multiple proceedings also raises questions as to the fact that the COFEX-North was not mandated to analyze the impact study, which contradicts the terms of the JBNQA.

3.1 Overview of the Issues Raised by the Multiplication of IA Processes

The brief history presented in the previous section, although not exhaustive, shows that the multiplication of IA processes has been a recurring problem for nearly 30 years in Nunavik. It is noted that efforts were made repeatedly over the decades to identify lasting solutions to the coordination of IA processes. Despite this, in the absence of a formal and systematic mechanism, advances in coordination have struggled to be sustained over time. To complete the portrait of this problem, below is an overview of the associated issues, the successes observed in past cases and the challenges to be met for the implementation of an effective and efficient coordination of processes.

Overview of the issues:

- The fatigue of local populations in the face of repeated requests to take part in consultation processes.
- The confusion created among local populations when several consultations take place for a single project and when consulting bodies do not consider the same issues nor evaluate them equally.
- This same confusion when divergent decisions are taken for the same project by various authorities, and when they are communicated in an uncoordinated manner.
- The amount of documentation received by local communities, which is sometimes insufficient or sometimes too voluminous, too technical and only in French, without summary.
- The financial and time costs incurred by the promoters.
- The significant waste of public funds arising from uncoordinated processes (e.g. A supplementary federal budget is granted when a review is undertaken by the NMRIRB)
- Overall, the inadequate implementation of the IA processes provided for in the treaties, to which the Government of Canada is bound, this implementation prevailing over that of federal legislation by virtue of the constitutional protection it enjoys (for example: COFEX-North has not been mandated to analyze a development project since 2012, despite the fact that projects in its jurisdiction have taken place.).

Successes observed in past cases:

- There is good communication and collaboration between the institutions having jurisdiction on the offshore (e.g. the Nunavik Marine Region Impact Review Board and the Nunavut Impact Review Board), possibly due to the similarity of the applicable treaties.
- There is good communication between the KEQC and the COFEX-North.
- Guidelines have been produced jointly.
- Consultations have been conducted jointly.

Challenges for the establishment of effective and efficient process coordination:

- Improve communication between the authorities responsible for each IA process and ensure that it becomes essential.

- Harmonize the timetables governing the different stages of an IA process.
- Create tools for collaboration between all impact review boards.
- Improve the understanding of all the stakeholders involved with regard to the applicable IA processes and ensure adequate transmission of information in case of staff turnover.
- Improve the mechanisms for involving communities at an early stage of the project and throughout the evaluation and consultation process (if necessary).

APPENDIX B

Comparative Table

Comparative criteria		NILCA	JBNQA/NEQA Provincial process	JBNQA/NEQA – Federal process	Impact Assessment Act (IAA)
Overview	Name of the process	NILCA Development Impact Assessment Process	Provincial Environmental and Social Impact Assessment and Review	Federal Environmental and Social Impact Assessment and Review	Federal process for impact assessments
	Reference documents	NILCA section 7 (Impact Assessment Process) NILCA section 6 (Land Use Planning)	-Section 23 JBNQA -Section 14 NEQA -Title II Environmental Quality Act -Information and public consultation procedure of the Kativik Environmental Quality Commission (KEQC, 1998) -Internal rules of management of the KEQC	-Section 23 JBNQA -Section 14 NEQA - Internal operating procedures of the Federal Environmental and Social Impact Review Committee (COFEX-North) (in French only)	- Impact Assessment Act - Regulations made under the Act: • Physical Activities Regulations • Designated Classes of Projects Order • Information and Management of Time Limits Regulations - Practitioner's Guide to the Impact Assessment Act
	Responsible Minister/Appointed administrator	NILCA, 7.1.1 NILCA	JBNQA, 23.1.6	JBNQA, 23.1.2	IAA, 61(1.1)
	Name and role of the review body	**NMRIRB** NILCA, 7.2.2 and 7.2.4 **Federal Environmental Assessment Panel**: NILCA, 7.6.1	JBNQA, 3.3.2 Environmental Quality Act, art. 186	JBNQA, 23.4.1 JBNQA, 23.4.11	**IAAC:** IAA, s. 155 and 156 **Review Panel:** IAA, s. 39(1) and s. 42(a)
	Composition of the review board(s)	**NMRIRB** NILCA, 7.2.6, 7.2.13 and 7.2.14 **Federal Environmental Assessment Panel**: NILCA, 7.6.2	JBNQA, 23.3.3	**Screening Committee** JBNQA, 23.4.2 **COFEX-North** JBNQA, 23.4.12	**IAAC** IAA s. 153 ss. and IAAC's website **Federal panel:** Joint review panel: IAA, s 39(1), s 42(c) and s 42 (d) "Ordinary" panel: IAA, s 41(1)
	Main objectives of the process	NILCA, 7.2.5	JBNQA, 23.2.2	JBNQA, 23.2.2	IAA, 6(1), (2) and (3)
	Harmonization rules	Transboundary considerations: NILCA, 7.2.25, 7.2.26, 7.11.2, 27.6.3 & 27.6.4	JBNQA, 23.7.5 and 23.7.6	JBNQA, 23.7.5, 23.7.6, 23.7.7 Internal operating procedures, COFEX-North	Internal coordination of federal bodies IAA, s. 8 Harmonization of timelines IAA, s 28 (5), (6), (7). S 37(3) & (4), s 65(5) & (6) Harmonization of responsibilities IAA, s 12 & 21 (IA phase), s 29, 31 and 39 (1)

Screening	Trigger of screening process	NILCA, 7.3.1, 6.5.9, 6.5.11, 7.3.5. 7.11.1 & 12.3	JBNQA 23.3.14	JBNQA 23.4.3	IAA, s 10, s. 11, s 12, s 14, s 15, s 16, & s 7.
	Review board/body involved in screening	NMRIRB	KEQC	Screening committee	IAAC
	Projects that are automatically subjected to an impact assessment OR excluded OR considered as grey zone Projects	NILCA, 7.3.3, 7.12.2, 7.12.3 & 7.4.3	JBNQA, 23.3.12, 23.3.13 & 23.3.14	JBNQA, 23.4.1, 23.4.3 & 23.4.14	IAA, s. 112(1)(a.2), s. 82, s. 84, & s 90 (1) & (3)
	Public consultations (screening)	NILCA, 7.5.3	JBNQA, 23.3.14 & 23.3.27	JBNQA, 23.4.17	IAA, s 11 & 12
	Criteria to be subjected to an Impact Assessment	NILCA, 7.4.2			IAA, s 16(2)
	Screening Report – mandatory content	NILCA, 7.4.4			* s. 16(3)
	Dialogue between Minister/Administrator and Board	NILCA, 7.4.8 & 7.4.9	Environmental Quality Act, art. 192	JBNQA, 23.4.7, 23.4.8 & 23.4.9	IAA, s 17(1)
	Time allocated to screening	NILCA, 7.4.5		Internal operating procedures, COFEX-North	IAA, s 18(1), s. 18(3), 112(1)c)
Impact Assessment	Trigger	NILCA, 7.4.6 & 7.4.7	JBNQA 23.3.12	JBNQA 23.4.14	IAA, s. 18 (1) & (2) & s. 31
	Competent board	**Federal Environmental Assessment Panel** NILCA, 7.4.7 a **NMRIRB** NILCA, 7.4.7 b	KEQC	COFEX-North	**IAAC**: IAA, s. 25 & 29 **Review Panel:** IAA' s. 36(1) & (2) **Jurisdiction** IAA, s. 31
	Authority on guidelines	NMRIRB or Federal panel, depending on which one is in charge of the IA (+ s. 7.6.5)	JBNQA, 23.3.17 JBNQA Environmental Quality Act, art. 19	Internal operating procedures, COFEX-North	**IAAC** IAA, s. 18(1)) **Jurisdiction** IAA' s. 31 & s. 18(1)
	Mandatory content of the impact statement/study	**IA by NMRIRB and federal panel** NILCA, 7.5.2 & 7.6.5 **IA by federal panel:** NILCA, 7.6.6	JBNQA, 23.3.17 & 23.3.18	JBNQA, 23.4.16	**IAAC** IAA, s 18(1.1) **Jurisdiction** IAA, s. 31
	Public participation	**NMRIRB** NILCA, 7.5.3, 7.2.30, 27.6.3 & 27.6.4 **Panel** NILCA, 7.6.1 **NMRIRB and federal panel** NILCA, 7.2.27 & 7.6.7	JBNQA, 23.3.27 Environmental Quality Act, Schedule III Information and public consultation procedure, KEQC	JBNQA, 23.4.17, 23.4.19 & 23.4.20 EQA, Schedule III Internal operating procedures, COFEX-North:	**Impact Assessment by Agency** IAA, s. 27 & s 28(1) **Impact Assessment by panel**: IAA, s. 51 (1) b & c, s. 75 (1) & (2)
	Evaluation Criteria	**IA by the NMRIRB:** NILCA, 7.2.2 & 7.5.5	JBNQA, 23.3.19	-No evaluation criteria provided	**IA done by the Agency or by a panel** IAA, s. 22

		IA by federal panel: NILCA, 7.6.8, 7.4.7 & 7.6.1			**IA by a panel** IAA, s. 42 **IA by a jurisdiction** IAA, s 33
	Impact Assessment Report – mandatory content	**IA by NMRIRB** NILCA, 7.5.6 **IA by federal panel** NILCA, 7.6.9 & 7.6.10	-No mandatory content	JBNQA, 23.4.21	**Impact Assessment by the Agency:** IAA, s 28 (3), 3.1 & 3.2 **Impact Assessment by a panel** IAA, s. 51 (1) d) **Impact Assessment by a jurisdiction** IAA, s. 33
	Time allocated for the impact statement/study (by proponent) and to the impact assessment (by the review body)	**Impact statement by proponent** NILCA, 7.5.2 **IA by NMRIRB:** NILCA, 7.5.4	JBNQA, 23.3.16, 23.3.25	No time allocation provided	**Impact Statement by proponent:** IAA, s 19 (1) & (2) **Impact Assessment report by Agency**: IAA, s 28(2),(5), (6), (7) & (9) **Impact Assessment report by Review Panel**: IAA' s. 37(1), (2) & (3), s. 58 & s. 59
	Public access to the report	**IA by the NMRIRB** NILCA, 7.5.8 c **IA by a federal panel**: NILCA, 7.6.9	Information and public consultation procedure, KEQC Environmental Quality Act, art. 183	Internal operating procedures, COFEX-North	IAA, s 28 (4), 104(1) & (2)
Final decision	Competent authority(ies) & mandatory dialogue	**IA by the NMRIRB**: NILCA, 7.5.7, 7.5.8, 7.5.9, 7.5.10 & 7.5.11 **IA by a federal panel:** NILCA, 7.6.11, 7.6.12, 7.6.13, 7.6.14 & 7.6.16.	JBNQA, 23.3.20, 23.3.21, 23.3.22	JBNQA, 23.4.21, 23.4.22, 23.4.2.23, 23.4.25 & 23.4.29	**Competent authority to authorize project** IAA' s. 60(1) & s. 62 **Competent authority to set conditions if project is approved** IAA, s. 64, s. 55.1 (1) & s. 64(4)
	Time allocated	**IA by NMRIRB** NILCA, 7.5.8 **IA by federal panel:** NILCA, 7.6.10 & 7.6.12	JBNQA, 23.3.25	Internal operating procedures, COFEX-North	**Minister's decision** IAA' s. 65(3) **Governor in Council's decision** IAA, s. 65(4) & s. 65 (5) & (6)
	Imperative criteria for final decision	**IA by the NMRIRB:** NILCA, 7.2.2 & 7.5.5 **IA by federal panel:** NILCA, 7.6.8, 7.4.7 & 7.6.1 Minister(s): No prescribed criteria, except s.7.2.2 b)	JBNQA, 23.3.19 Lieutenant-Governor in Council: criteria of public interest (23.3.24)	* JBNQA s. 23.4.23)	IAA s. 63
	Public access to the decision	NILCA, 7.5.8.c & 7.6.9	JBNQA, 23.3.8 MELLC website: https://www.environnement.gouv.qc.ca/evaluations/projet-nord.htm (French only) KEQC website: https://www.keqc-cqek.ca/en/projets/	JBNQA, 23.4.28 Public registry: https://www.canada.ca/en/impact-assessment-agency/corporate/james-bay-northern-quebec-agreement.html	IAA, s. 66, s. 65(2) & s 66

	Entity issuing the certificate	NMRIRB	MELCC	The federal administrator	Minister
	Other government authorizations & permits	NILCA, 7.10.1, 7.9.2, 7.9.3, 7.9.6 & 7.9.10	JBNQA, 23.3.15 & 23.3.29	JBNQA, 23.4.28	IAA, s. 8 & 67 (1), (2) & (3)
	Modification of the certificate	NILCA, 7.8.2 & 7.8.3	Environmental Quality Act, art. 122.2 JBNQA, 23.3.24	JBNQA, 23.4.29	IAA, 68 (1), (2), (3) & (4), s 69 (1) & s 72 (2) & (3)
Monitoring	Source of the environmental monitoring program	NILCA, 7.7.1 & 7.7.6	23.3.30		IAA, s 22(1), s 28 (3.2), s 51(1) d) iv & s 64(4)
	Role of competent authorities	NILCA, 7.9.1, 7.7.3, 7.7.4 & 7.5.5	JBNQA, 23.3.30 & 23.5.27		IAA, 105 (2) & (3), s 126 (1) & s 127 (1)

APPENDIX C

Working Group's IAA Implementation Options description document

Points further to the IAAC Information Session on March 11, 2020

(based on presentation by Susan Winger)

General Information

- The Impact Assessment Agency of Canada (IAAC) recognizes the benefits of the principle "one project, one assessment".
- In this respect, section 12 of the *Impact Assessment* Act stipulates that "the Agency must offer to consult with any jurisdiction that has powers, duties or functions in relation to an assessment of the environmental effects of the designated project and any Indigenous group that may be affected by the carrying out of the designated project" for the purpose of preparing an impact assessment of a designated project.
- Section 21 of the *Impact Assessment Act* also stipulates that "The Agency — or the Minister if the impact assessment of the designated project has been referred to a review panel — **must offer to consult and cooperate** with respect to the impact assessment of the designated project **with** […] (b) **any jurisdiction referred to in paragraphs (c) to (i)** of that definition if the jurisdiction has powers, duties or functions in relation to an assessment of the environmental effects of the designated project".
- The IAAC is therefore required to contact during the planning stage of the impact assessment other jurisdictions that may be carrying out impact assessments on a given project in order to propose to work collaboratively. In addition, the IAAC or the Minister must offer to consult these jurisdictions during the actual assessment stage. Refer to section 2 of the *Impact Assessment Act* for the definition of *jurisdiction*.

Harmonization under the Act

- During her presentation, Ms. Winger set out four possible approaches open to the IAAC for collaborative work with other jurisdictions with impact assessment powers, duties or functions (cooperation and coordination, delegation, substitution and creation of a joint review panel). There is also a provision for non-application of the Act, but it has not yet been clearly defined.
- A summary of these approaches is presented at the end of this document.

a. Cooperation and Coordination

- The jurisdictions coordinate activities and, where possible, timelines and the production of different documents.
- Section 114, subsection (1), paragraphs (c), (d), (e) and (f) in particular establish the parameters of cooperation and coordination between jurisdictions.
- There is a difference between cooperation agreements or arrangements that may be entered into without requiring authorization pursuant to regulations (114(1)(c) and (f)) and those that must be authorized pursuant to regulations (114(1)(d) and (e)). Delegation and substitution do not need to be implemented through cooperation agreements or arrangements authorized pursuant to regulations. However, the recognition of certain Indigenous governing bodies (ex.: the Makivik Corporation and the Naskapi Nation of Kawawachikamach), which have powers, duties or functions in relation to the assessment of environmental effects, must be covered under an agreement or arrangement entered into with the Minister pursuant to regulations.

- The purpose of the cooperation and coordination agreements or arrangements referred to in paragraph (c) is to establish a method that permits the different applicable environmental assessment procedures to work together. It does not have to be specific to the project. Notwithstanding, even if shared cooperation and coordination principles can be agreed on in a general agreement, the variety of procedures and projects in Nunavik will also require specific cooperation and coordination approaches, project by project.
- KEAC participants indicated that it is necessary to coordinate how the different procedures are presented to the communities and how the different decisions are made and communicated, in order to avoid situations where one review panel recommends a decision that differs from the recommendation of another review panel or mitigates its scope. In this respect, framework coordination agreements or arrangements pursuant to paragraph (c) of subsection 114(1) could be used to establish shared public-communication and decision-making principles. The framework agreements and arrangements entered into by the IAAC with the Government of British Columbia and with Inuvialuit could eventually provide solutions for simplifying the decision-making process.
- Paragraphs (d) and (e) of subsection 114(1) extend the exercise of powers and the performance of duties or functions under the Act to jurisdictions (co-management or other bodies) established by treaty and Indigenous governing bodies.
- The cooperation and coordination agreements or arrangements referred to in paragraph (f) must be for specific projects.

b. Delegation

- This provision allows the IAAC to delegate some stages of the impact assessment process to one or more jurisdictions, bodies or persons, while remaining responsible for the overall process.
- The goal of delegation is convenience, i.e. to avoid the multiplication of public consultations or other impact assessment tasks.
- The Minister continues to be responsible for authorizing, or not, the project. Delegation of a part of the impact assessment procedure does not remove the decision-making power of a jurisdiction (this is also true for cases of substitution). The impact assessment report produced through a delegation or substitution is always transmitted, in accordance with the Act, to the Minister for final decision. According to the IAAC, the Minister must base his or her determination on the impact assessment report. Notwithstanding, his or her interpretation may differ from another jurisdiction (e.g. different methods of assessing factors in the public interest).
- It was suggested that, as the preferential consultative body for environmental and social impact assessment procedures under Section 23 of the JBNQA, the KEAC could make recommendations concerning the jurisdiction that might be delegated responsibilities. Given its mandate, however, the KEAC is not empowered to provide advice for the Nunavik Marine Region.
- The IAAC communicated a desire to avoid the duplication of procedures.
- Section 29 defines the power of delegation as follows:

  "The Agency may delegate **to any person, body or jurisdiction referred to in paragraphs (a) to (g)** of the definition *jurisdiction* in section 2 **the carrying out of any part of the impact assessment of the designated project** and the preparation of the report with respect to the impact assessment of the designated project."

c. Substitution

- The Minister could substitute the procedure of a jurisdiction for the process under the Act.
- Substitution was implemented for the Inuvialuit under the *Canadian Environmental Assessment Act, 2012*.
- Exceptions and conditions apply to substitutions and are established in sections 31, 32 and 33 of the Act.

- In the case of a project on land and sea, could two procedures be substituted for the process under the Act? According to Ms. Winger, this would probably be possible, but the situation has never arisen.
- One substitution approach that could be explored further is a memorandum of understanding (between Nunavik review panels and, possibly, organizations interested in coordinating environmental and social impact assessment procedures established by treaty) that could be recognized as a replacement to the Act (i.e. the process in the Act would be substituted by two or more procedures applied in coordination).
- Section 31 defines the power of substitution as follows:

  "Subject to sections 32 and 33, if the Minister is of the opinion that **a process for assessing the effects of designated projects that is followed by a jurisdiction referred to in any of paragraphs (c) to (g) of the definition *jurisdiction* in section 2**, that has powers, duties or functions in relation to an assessment of the effects of a designated project **would be an appropriate substitute**, the Minister may, **on request of the jurisdiction** and before the expiry of the time limit referred to in subsection 18(1), or any extension of that time limit, approve the substitution of that process for the impact assessment."

d. Agreement or Arrangement respecting the Joint Establishment of a Review Panel

- The jurisdictions jointly appoint the review panel members and agree on its mandate to carry out the impact assessment.
- Section 39(1) provides for the power to establish a joint review panel:

  "When the Minister refers the impact assessment of a designated project to a review panel, he or she may enter into an agreement or arrangement with any jurisdiction referred to in paragraphs (a) to (g) of the definition *jurisdiction* in section 2 that has powers, duties or functions in relation to an assessment of the environmental effects of the designated project, respecting the joint establishment of a review panel and the manner in which the impact assessment of the designated project is to be conducted by that panel."

e. Non-Application of the Act

- Sections 4 and 110 permit the Act to not be applied:

  "**4** This Act does not apply in respect of physical activities to be carried out wholly within lands described in Schedule 2."

  "110 The Governor in Council may, by order, amend Schedule 2 by adding, replacing or deleting a description of lands that are subject to a land claim agreement referred to in section 35 of the *Constitution Act, 1982*."

- According to the IAAC, more work is still needed to properly define the non-application provision under the Act. Currently, its aim is to use the provision to avoid problems related to the multiplication of impact assessment procedures rather than opt for non-application.
- A policy will be developed to establish principles and guidelines for Schedule 2. Schedule 2 will not list regions specifically.
- The first stage for achieving non-application of the Act in Nunavik will probably involve an application transmitted to the Minister by an Inuit or Naskapi authority. It will require negotiation. The Governor in Council will be responsible for any decision.
- KEAC participants pointed out that implementation of the non-application provision should not be problematic since the JBNQA was signed 40 years ago by the federal government. In response, it was explained that impact assessment standards have evolved since 1975 and the JBNQA procedures may not have kept pace with this evolution. An assessment will be required to determine that they sufficiently protect federal interests in accordance with the Act.
- During the March 11 information session, Ms. Winger suggested that the existing procedures be examined as follows: Do they have the capacity and are they robust enough for the assessment of large-scale projects under the best conditions?

f. Modification of the Requirements of the Act pursuant to Regulations: one approach?

- Section 109 permits the requirements of the Act to be modified pursuant to regulations:
  "The Governor in Council may make regulations […]

  (d) **varying or excluding any requirement** set out in this Act or the regulations **as it applies to physical activities** to be carried out […]

  (ii) on lands covered by **land claim agreements** referred to in section 35 of the *Constitution Act, 1982*,

  (iii) **on lands with respect to which agreements or arrangements** referred to in paragraph 114(1)(d) or (e) **apply**, […]

  (e) **respecting agreements or arrangements** referred to in paragraph 114(1)(d) or (e);"

- Although this tool was already contained in the *Canadian Environmental Assessment Act, 2012*, it has never been used. It permits the Act to be applied differently in a given area.

SUMMARY OF APPROACHES UNDER THE ACT

- **Framework agreement (section 114(1)(c)):**
  - entered into with the Minister;
  - establishes the main principles of various potentially applicable impact assessment processes (ex.: impact assessment coordination; decision-making coordination; communication coordination, etc.);
  - is not governed by regulations;
  - any jurisdiction referred to in paragraphs (a) through (g) of the definition of *jurisdiction* is eligible (including impact assessment bodies established by treaty as well as Indigenous governing bodies such as the Makivik Corporation or the Naskapi Nation of Kawawachikamach which must first however be recognized through an agreement or arrangement with the Minister pursuant to regulations as having powers, duties or functions in relation to the assessment of environmental effects).
- **Project-by-project agreement (section 114(1)(f)):**
  - entered into with the Minister;
  - establishes the parameters of coordination, consultation, exchange of information and the determination of factors to be considered in relation to the assessment of the environmental effects of the designated project;
  - is not governed by regulations;
  - any jurisdiction referred to in the definition of *jurisdiction* is eligible (including impact assessment bodies established by treaty as well as Indigenous governing bodies such as the Makivik Corporation or the Naskapi Nation of Kawawachikamach which must first however be recognized through an agreement or arrangement with the Minister pursuant to regulations as having powers, duties or functions in relation to the assessment of environmental effects).
- **Delegation (section 29):**
  - determined by the IAAC;
  - the entire impact assessment process established under the Act, or any part of the process;
  - is not governed by regulations;
  - any body, person or jurisdiction is eligible.
- **Substitution (section 31):**
  - the Minister determines that there is compliance with the exceptions and conditions set out in sections 32 and 33 (appended);
  - another process is substituted for the entire process established under the Act (from the issuance of guidelines for the impact study to the submission of the assessment report to the Minister);

- any jurisdiction referred to in paragraphs (a) through (g) of the definition of *jurisdiction* is eligible (including impact assessment bodies established by treaty as well as Indigenous governing bodies such as the Makivik Corporation or the Naskapi Nation of Kawawachikamach which must first however be recognized through an agreement or arrangement with the Minister pursuant to regulations as having powers, duties or functions in relation to the assessment of environmental effects).

- **Joint review panel (section 39):**
  - pursuant to an agreement or arrangement entered into with the Minister;
  - establishes the composition of the review panel and how the assessment is to be conducted;
  - any jurisdiction referred to in paragraphs (a) through (g) of the definition of *jurisdiction* is eligible (including impact assessment bodies established by treaty as well as Indigenous governing bodies such as the Makivik Corporation or the Naskapi Nation of Kawawachikamach which must first however be recognized through an agreement or arrangement with the Minister pursuant to regulations as having powers, duties or functions in relation to the assessment of environmental effects).

- **Non-application of the Act (sections 4 and 110):**
  - establishes that territories subject to treaty and listed in Schedule 2 of the Act are exempt from application of the Act;
  - probably not an available approach over the short and medium terms: the federal government must first create policies for such an exemption.

- **Modification of the requirements of the Act pursuant to regulations (section 109 (d)):**
  - this provision has never been implemented, even though it was contained in the *Canadian Environmental Assessment Act, 2012;*
  - determines that the Act may be applied differently in a designated territory;
  - clarifications are required to better understand the potential of this provision.

APPENDIX D

Questions Asked to the Impact Assessment Agency of Canada

Questions for the Agency regarding certain sections of the IAA[19]

1. Why it is only *aquatic* species at risk that are considered within the prohibitions that apply to the proponents under s. 7? (Par. (1) a) ii)
2. Who evaluates whether a project should be sent to the Agency for screening (IAA s.7, especially paragraph c)? Is it left to the discretion of the proponent? If so, how are proponents expected to determine impacts on Indigenous people such as those on physical & cultural heritage, use of lands and resources for traditional purposes or anything that is of historical, archaeological, paleontological or architectural significance?
3. The referral of an impact assessment to a panel occurs based on whether it is in the public interest, which is defined under s. 36(2). How do the public interest criteria influence such Minister's decision on referral?
4. NILCA provision 7.6.1 states that a panel shall conduct an impact assessment in accordance with the provisions of NILCA part 7.6 and "with any other procedures, principles and general practices that provide at least the same opportunity for an open and comprehensive public review as provided by the Environmental Assessment and Review Process Guidelines Order (S.O.R./84-467, 22 June, 1984)". Does the Agency still use this Order as a reference and if not, has it been replaced?
5. Are there internal policies/guidelines as to how long the Minister may extend a deadline for a proponent to undertake their project (s. 70)?
6. In reference to s. 7.9.3 a) & b) NILCA, what are examples of (a) regulatory board's independent decisions which Government does not have the authority to vary and (b) any other independent decision of a regulatory board?
7. Are there internal policies/guidelines as to which circumstances allow for the Minister to modify a decision statement (IAA s. 68), and as to any consultation requirements, apart from the online posting referred to in s. 69? Can that modification be done upon request from Indigenous communities or organizations or treaty boards? (This can be relevant for e.g. projects that are undertaken later than their date of approval).
8. Does s. 82 of the IAA create a different regime for projects carried out on federal lands? (I.e. evaluation of environmental adverse effects of a project done by the federal authority responsible for such project, instead of an IA under the IAAC.) In other words, how does s. 82 co-exist with the main impact assessment process provided for in the IAA, which is led by the IAAC?

Questions to the Agency regarding the harmonization options offered by the IAA

1. General questions on all options:

1.1. For each harmonization option, has the Agency established specific criteria (or a template) for establishing an agreement/arrangement with another jurisdiction?

1.2. Negotiating an agreement can take a long time. If it takes place on a project-by-project basis, this additional time must be considered in the overall IA process. At what point in the process is the harmonization option initiated and by whom? From there, what is the timeline to establish an agreement or arrangement with the determined jurisdiction?

- Which organization would be responsible to negotiate and sign an agreement (the review boards? The JBNQA/NILCA signatories/administrators?)

1.3. If the criteria for project evaluation determined in the agreement or arrangement is greater than the capacity of the designated review body, will the Agency provide financial support and/or expertise, in lieu of some, or all, of its responsibilities?

2. Cooperation and coordination (section 114):

[19] Questions 4 & 6 relate to the Nunavik Inuit Land Claim Agreement (NILCA)

2.1. Paragraphs (d) and (e) of section 114(1), which make ministerial authorization conditional to regulations, appear to contemplate cases where the Minister would like to authorize a co-management body established by treaty or an Indigenous government body to exercise the powers and perform the duties and functions under the Act (versus the powers, duties and functions of another procedure). This is similar to delegation and substitution; however, since it involves ministerial authorization through an agreement or arrangement, it may be inferred that a framework agreement will be entered into to systematically recognize the authority of these jurisdictions to exercise the powers and perform the duties and functions under the Act (instead of carrying out delegations or substitutions on a project-by-project basis). Is this correct? Can you confirm that neither delegation nor substitution require authorization pursuant to regulations?

2.2. Still with regards to the regulations needed for the agreements and arrangements under 114(1) d) & e): What is the status of development of such regulations? What is the expected timeline for their adoption? Is there any form of agreement/arrangement possible in the meantime?

2.3. Would a cooperation or coordination agreement make it possible to set up a joint decision-making process, or does the final decision to authorize the project, or not, remain the prerogative of the Minister?

3. Delegation (section 29):

3.1. According to our analysis: Delegation is determined by the Agency. It decides if it will delegate any part of an IA to a body, jurisdiction or person (after the impact assessment has been confirmed). It may decide to carry out a delegation at any time during the IA. Is this correct?

3.2. In the case of a project on land and sea, could a given part of the process under the Act be delegated to more than one body/person/jurisdiction?

3.3. Would a delegation agreement make it possible to set up a joint decision-making process, or does the final decision to authorize the project, or not, remain the prerogative of the Minister?

4. Substitution (section 31):

4.1. According to our analysis: Substitution is determined by the Minister. He/she decides to allow the use of another procedure to replace the process established under the Act. He/she must make such a decision before the Agency publishes the notice of commencement of the IA. Is this correct?

4.2. In the case of a project on land and sea, could two procedures be substituted for the process under the Act?

4.3. Could a memorandum of understanding (between Nunavik review panels and, possibly, organizations interested in coordinating environmental and social impact assessment procedures established by treaty) be recognized as a substitution for the process under the Act (i.e. the process in the Act would be substituted by two or more procedures applied in coordination)?

4.4. Would a substitution agreement make it possible to set up a joint decision-making process, or does the final decision to authorize the project, or not, remain the prerogative of the minister?

5. Joint review panel (section 39):

5.1. Can agreements/arrangements be made with several jurisdictions, or will there be separate agreements for each process triggered per project?

5.2. Does the Agency allocate funding for the Review Panel?
- If yes, does the funding enable the Review Panel to hire experts?

5.3. "The jurisdictions jointly appoint review panel members and agree on its mandate to carry out the IA"
- Who determines the number of panel members?
- What happens if there is dispute concerning the number of panel members or the number of members representing a community or organization, etc?
- What happens if there is dispute concerning the mandate?

6. Non-application of the Act (sections 4 and 110):

6.1. How does the Agency determine if the review bodies have the capacity to undertake a full project evaluation? And if determined as insufficient, how can the Agency support the review bodies to allow for their capacity to grow?

6.2. What is the current development stage of Schedule 2? When is it expected to be made public?

7. Modification of the requirements of the Act pursuant to regulations (section 109 d)

7.1. We note that such option has never been mobilized even though it was part of CEAA 2012, and that there's probably minimal information on what its implementation would look like. To better understand what is offered by this option, we pose the following questions:

- What are the possible modifications of the Act using this option? What are the pre-requisites for adopting the regulation? Will a regulation be region-specific, project-specific, or both? How promptly can the regulation be adopted? Could it imply a co-development process?

APPENDIX E

Differences between the JBNQA, the NILCA and the IAA Processes

- *Regional representation on assessment boards' membership*: The NILCA requires members be nominated by Makivik on both the NMRIRB and a Federal Environmental Assessment Panel. Likewise, the JBNQA requires members be appointed by the KRG on the KEQC and COFEX-North. These mandatory memberships ensure regional experience and deep knowledge of Nunavik residents' needs and perspectives directly within the boards, and ultimately more regional voice within the IA process. They also provide Nunavik residents with trustworthy representation. The IAA does not require such regionally grounded nomination or appointment.

  Note: In the case of the JBNQA, such regional representation has been questioned in past years due to the absence of Naskapi representatives on the COFEX-North, the KEQC and the KEAC. Attention must therefore be drawn to the letter of the treaty[20] and its implementation in practice. For instance, when the regional representation of a board does not accurately reflect the community(ies) impacted by a project, increased consultations and communications should be undertaken.

- *Process triggers*: Each process is not triggered by the same event and/or actor:
  - The NMRIRB receives project proposals from the NMRPC, which receives proposals from the competent minister(s). In practice, the NMRIRB plans on working from an online registry allowing proponents to apply to the board directly for screening (A. Lewis, interview, August 24, 2021).
  - The KEQC and COFEX-North receive project proposals from the provincial and federal administrators respectively.
  - The IAAC receives project proposals directly from the proponents.

- *Subjected projects*: The approach for determining whether a project is subject to an IA differs between processes:
  - NILCA: All projects are submitted to the IA process unless they are part of the exempt projects list (schedule 7-1). The NMRPC may decide to still subject an exempt project to the NMRIRB's screening in case of concerns respecting the project's cumulative effects. The NILCA does not define the term "project" which, according to the NMRPC and the NMRIRB, can make the implementation of both boards' processes challenging in case of projects with smaller impact potential such as research projects (Q. Robinson and A. Lewis, separate interviews, August 2020)
  - JBNQA: Projects can be automatically subject to, or exempt from, an IA (respectively annexes 1 and 2), or considered "grey zone" projects (in which case they first need to be screened by the KEQC or the COFEX-North to determine whether an assessment is required). The JBNQA states that both annexes must be reviewed by the Quebec government and the KRG every five years and that the JBNQA signatories may agree to update them in light of technological changes and experience with the assessment and review process, but both annexes have been unchanged since the adoption of the JBNQA in 1975.
  - IAA: For projects to be subject to the IAA process, they need to (1) qualify as a "Designated Project" (i.e., being listed in the *Physical Activities Regulations* or designated by Ministerial order), and (2) have the potential to cause the effects listed under section 7(2) of the IAA (including certain changes to the environment and impacts on Indigenous peoples).

- *Consulting the public at the screening stage*: Contrary to the IAA, the NILCA and the JBNQA do not require public consultations at the screening stage. This said, it was identified by the NMRPC, NMRIRB and COFEX-North as a best practice, as long as such consultations are properly framed and communities' understanding of the purpose of such consultations at the screening stage is secured.

[20] See JBNQA sections 23.3.14, 23.3.20, 23.4.2 and 23.4.12.

- *Time allotted for screening*: The JBNQA boards do not have a time limit for screening, while the NMRIRB operates with a general rule of 45 days and the IAAC, six months. It therefore appears like there is low risk of the IAAC pressing the other boards because of its own regulatory timelines (unless the Government of Canada is in a rush to proceed with a given project, in which case the IAAC's screening decision might happen faster than the boards'). This could consist in an opportunity for coordination at the screening stage.
- *Content of guidelines issued to the proponent for their impact statement*: The NILCA, the JBNQA and the IAA each establish a different set of information which the concerned boards must refer to when developing their guidelines for an impact statement.
- *Evaluation criteria supporting the impact assessment*: The NILCA, the JBNQA and the IAA each establish a different set of criteria which the concerned boards must base their assessment on.
- *Time allotted for the assessment*: The COFEX-North and the NMRIRB are not bound to a time limit, although the competent Minister may propose to the NMRIRB reasonable time frames for completion of the assessment. According to the text of the JBNQA, the KEQC has between 45 and 90 days after the communication of the proponent's impact study, depending on the project at stake, to complete its assessment. In practice, though, the KEQC usually requires time extensions and takes more time for its assessment. The IAAC has 300 days to complete its assessment upon communication of the proponent's impact statement, and can decide to extend such time limit, notably to allow collaboration with jurisdictions.
- *Dialogue between assessment boards and decision makers*: The NMRIRB and the COFEX-North both have a procedural guarantee for a dialogue with the competent Minister and federal administrator, respectively, in case they vary or reject the board's recommendation at the screening or assessment stages[21]. The IAA does not offer this opportunity for a dialogue between the Minister or Governor in Council and the author of the final IA report.
- *Final decision makers*: Final decision makers vary from one process to the other:
    - NILCA: Federal/territorial minister(s) responsible for issuing a permit or authorization for the project (e.g., Transport Canada, Environmental and Climate Change Canada, Fisheries and Oceans Canada). The final decision maker of the NILCA process is not the IAAC.
    - JBNQA/federal administrator: IAAC President
    - JBNQA/provincial administrator: MELCC's Deputy Minister
    - IAAC: Federal Minister of the Environment (or Governor in Council, for assessments done by a federal panel)
- *Issuance of a project certificate and modification of certificate's conditions*: Under the IAA, the Minister can modify their decision statement, conditional to making its decision public. They do not have to consult with boards. The NILCA and JBNQA rather provide for a dialogue with the assessment boards prior to a project certificate being modified.

[21] For the KEQC, a screening decision is considered final and directly implementable by the provincial administrator (JBNQA, s. 23.3.14). The KEQC's decision to approve or not a project may be rejected or varied by the provincial administrator, conditional to the consent of the responsible Minister to such rejection or variation (s. 23.3.21). In any case, the Government may authorize a project which has not been authorized by the Minister, modify the conditions imposed by the latter, or exempt a project from the assessment and review procedure if deemed in the public interest (s. 23.3.24). According to the text of the JBNQA, these modifications are not subject to a dialogue with the KEQC.

APPENDIX F

Overview of the Impact Assessment Act Process