

TREATY-BASED IMPACT ASSESSMENT REGIME IN NUNAVIK

A Joint Report between Makivvik, the Naskapi
Nation of Kawawachikamach and the Kativik
Environmental Advisory Committee

NOVEMBER 2020



Source: Photo by Sarah Rogers; Nunatsiaq News





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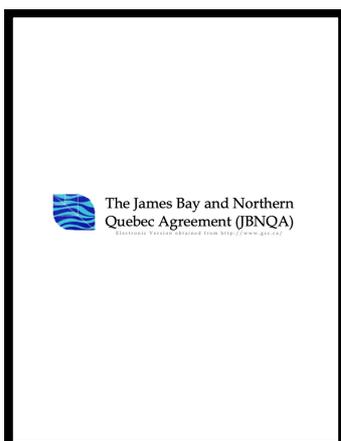
Overview of the Issues Raised by the Multiplication of IA Processes

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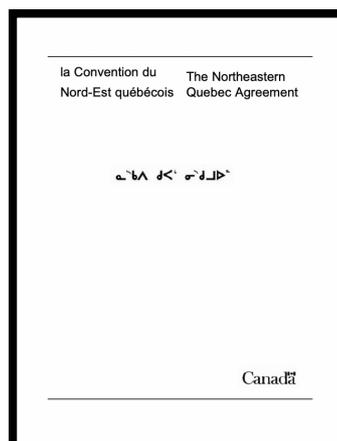
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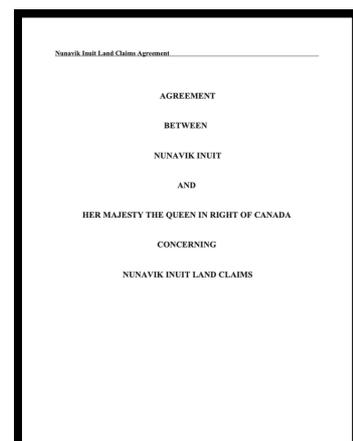
In Nunavik, modern treaties provide for constitutionally protected processes related to impact assessments. In 2018 and 2019, the federal Bill C-69 peaked the interest of Nunavik organizations that are signatories to or that were created by treaties providing for impact assessment (IA) processes in Nunavik, 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.



JBNQA



NEQA



NILCA



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:

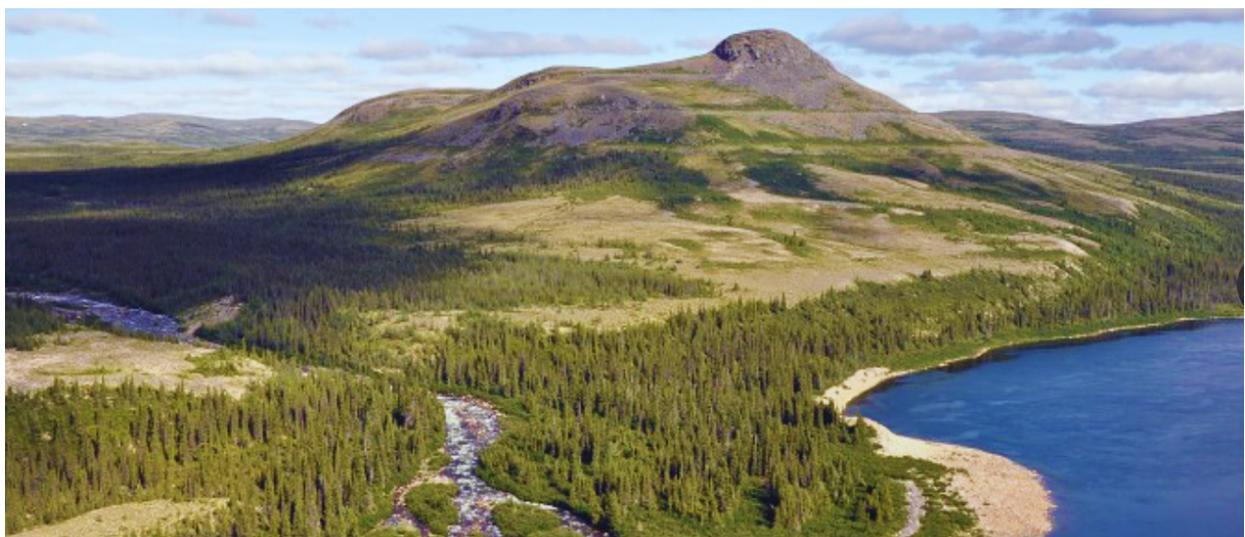
- A description of the three IA processes provided for by the JBNQA, NEQA and NILCA (section 2). This includes a description of the bodies directly involved in such processes, namely the Kativik Environmental Quality Commission (KEQC), the COFEX-North, the NMRPC and the NMRIRB, as well as other implicated 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 the 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.



Ulittaniujalik National Park
Source: Nunavik Parks

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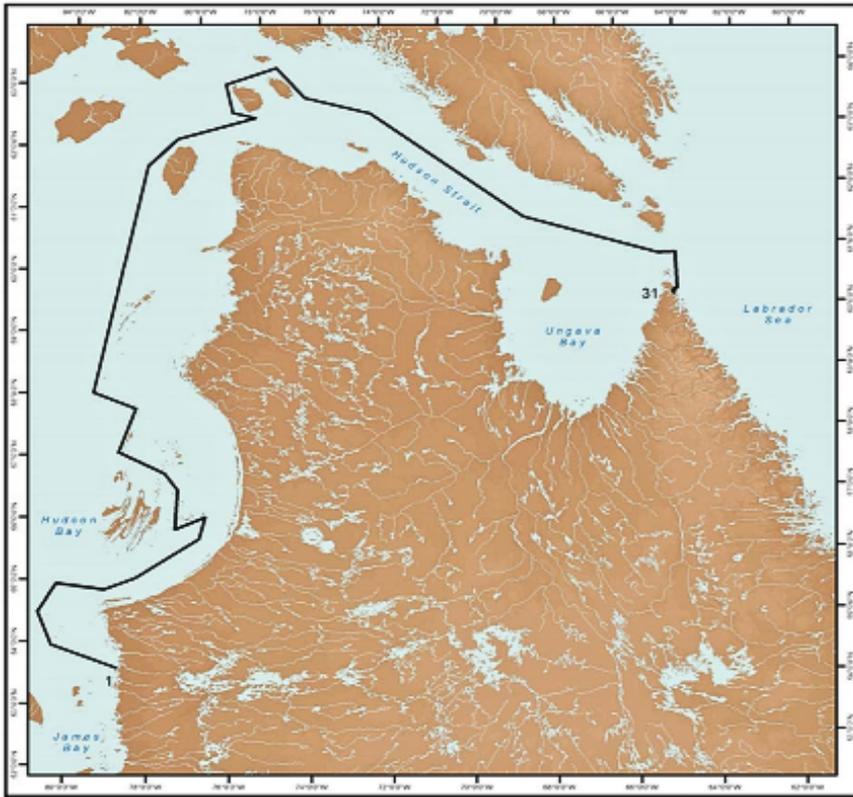
Nunavik's Treaty-based Impact Assessments Regime: Introduction



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.

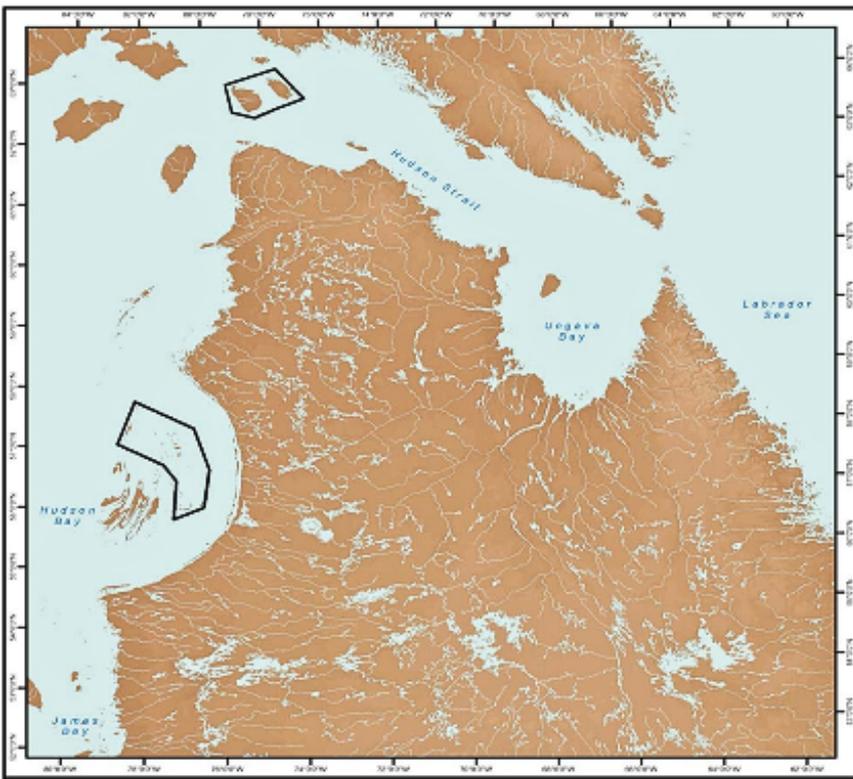
The Nunavik Inuit Land Claims Agreement (NILCA), signed by Makivik Corporation, the Government of Canada and the Government of Nunavut, came into force in 2008. It recognized Inuit's rights to the offshore, a necessary follow-up to the 1975 JBNQA. The NILCA established the Nunavik Marine Region (NMR) (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.



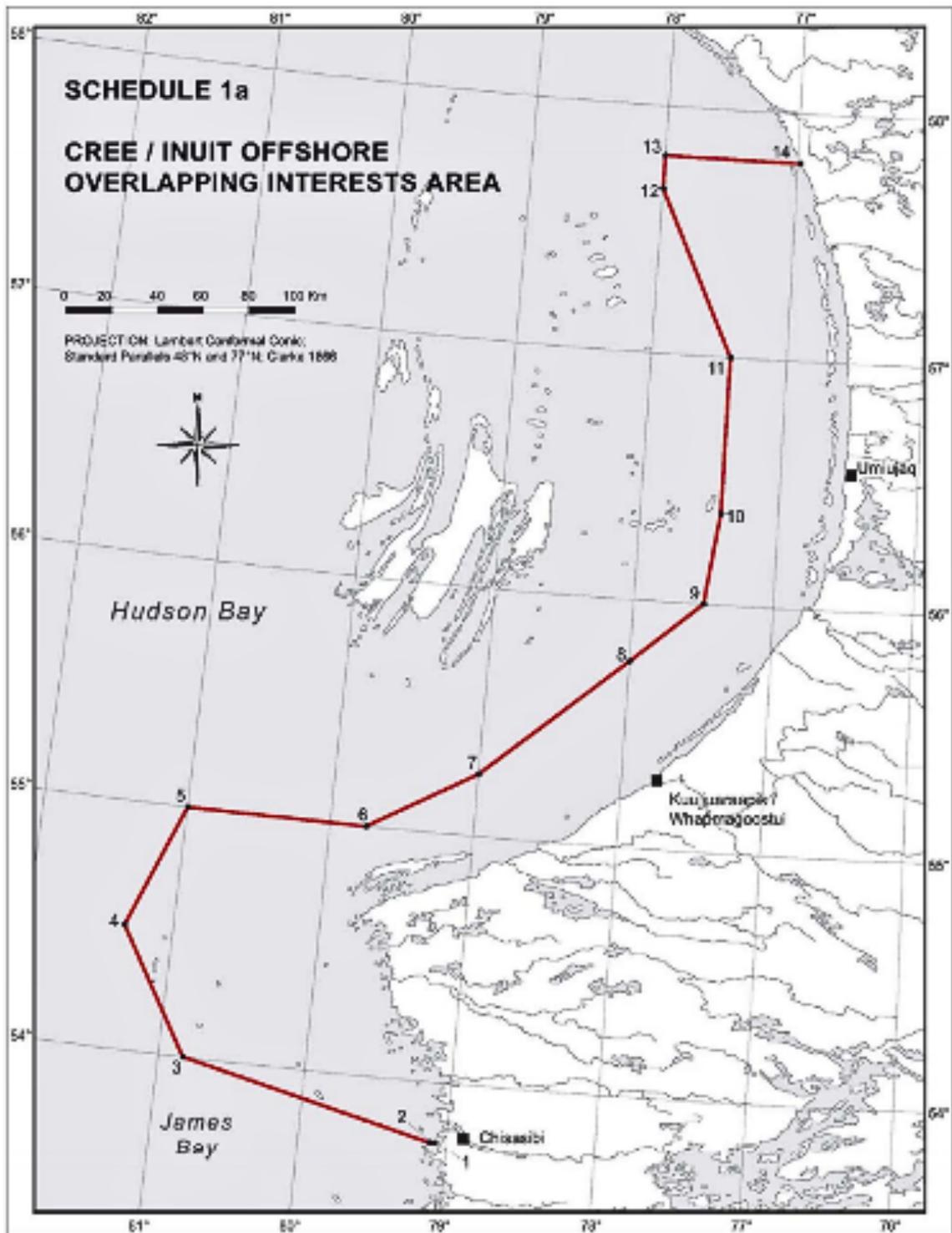
MAP 2: Nunavik Marine Region

Source: NILCA



MAP 3: Areas of Equal Use and Occupancy

Source: NILCA



Map 4: Cree/Inuit Offshore Overlapping Interests Area

Source: Consolidated Agreement; Cree/Inuit Offshore Overlapping Interests Area



2.1. JBNQA: The Environmental and Social Protection Regime

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 whom 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 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.

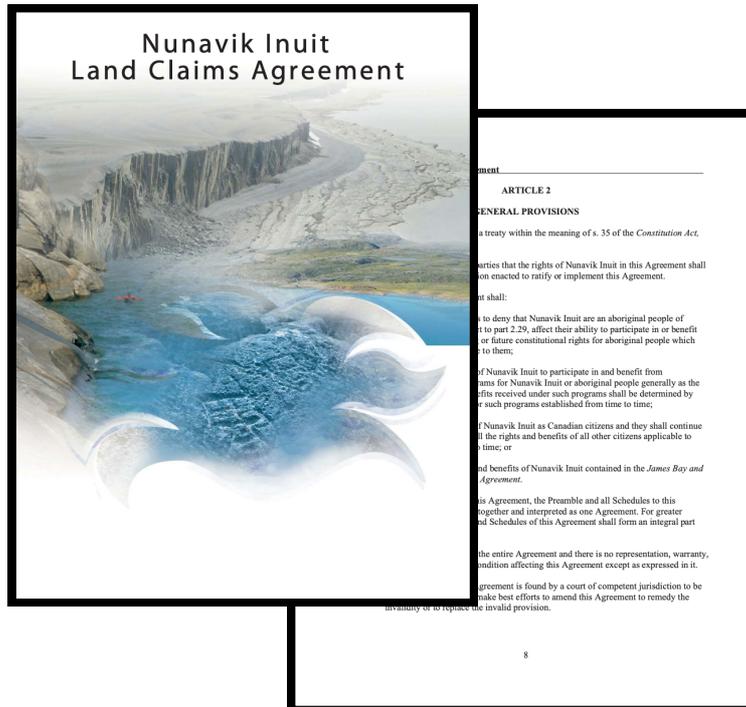
The trigger of a project screening by the NMRIRB happens when, upon confirmation of compliance with the LUP, the NMRPC transmits the project to the NMRIRB[1]. Not all projects are subject to the impact assessment process: Projects listed under Schedule 7-1 are indeed exempt from the NMRIRB's screening, 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^[1] 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 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 Assessment Regimes

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 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.



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Comité consultatif de l'environnement Kativik
Kativik Environmental Advisory Committee



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

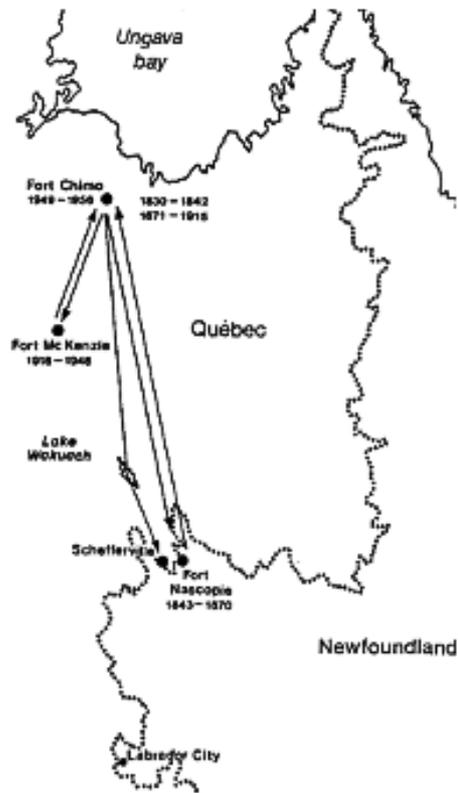
The Naskapi Nation of Kawawachikamach (NNK) is a First Nations community located approximately 12 km northeast of the town of Schefferville, near the Quebec-Labrador border. The Naskapis were a nomadic people who, for generations, followed the caribou herds from the Hudson Bay in the west to the Labrador Coast in the east, and from the southern coast of Ungava Bay in the north to the vicinity of Labrador City in the south. The Naskapi call this vast area *Nuchimiyuschiiy*, which means “the territory where we hunt”. 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 Nascope and Fort McKenzie solely for the commercial needs and interests of the Hudson’s Bay Company.

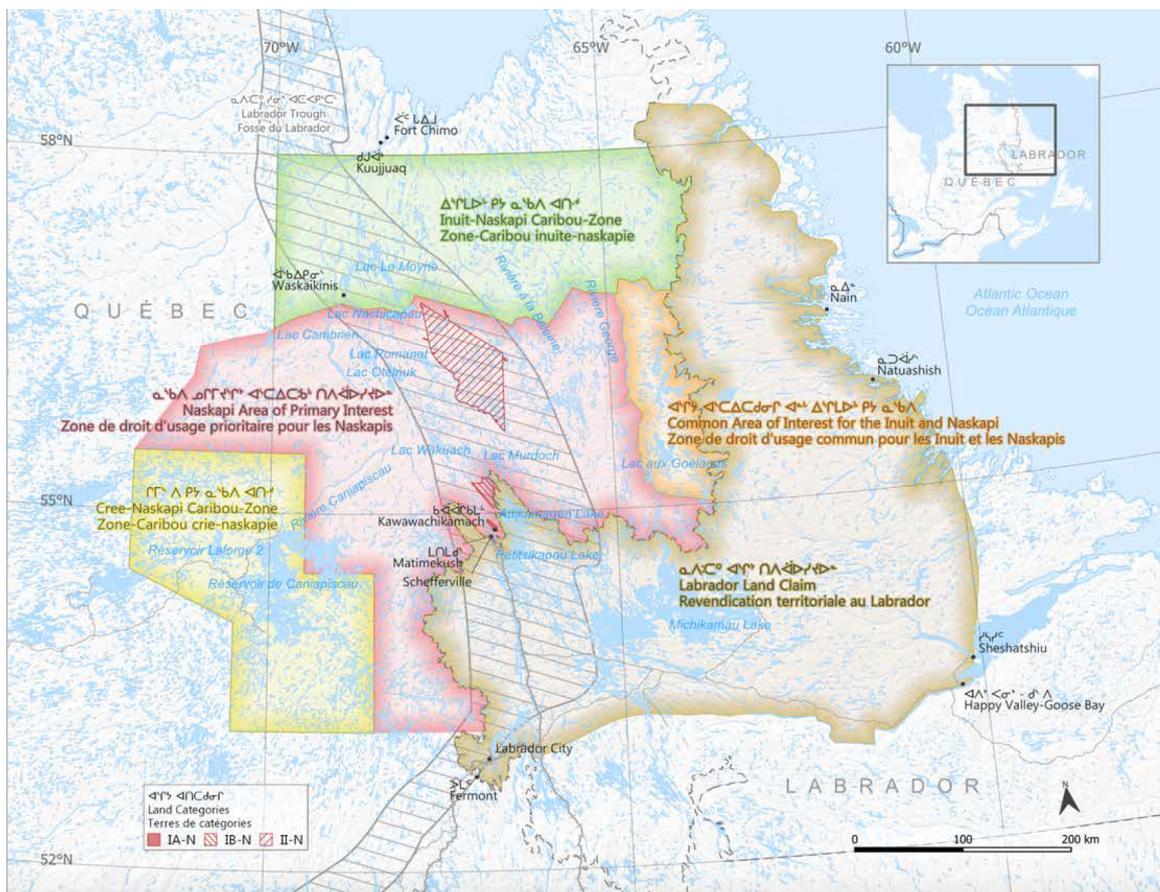
From 1900 to 1940, the decline of the caribou population, along with pressures of the fur trade, famine and disease, threatened the very existence of the Naskapi people. In 1956, they moved from the Fort Chimo area to the recently founded iron-ore mining community of Schefferville. After relocating a 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.

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



MAP 6: Caribou Zones and the Naskapi Sector

Source: Naskapi Mining Policy

3

Interaction 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 Quaqtq 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 to:

- 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;
- Satisfy the concerns of the proponent (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 Quaqtq 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. Following lengthy discussions, a partial delegation was thus put in place. 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 Quaqtq 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.



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 CEEA 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.

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 CEEA (2012) process. CEEA 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 (e.g. 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).

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Comité consultatif de l'environnement Kativik
Kativik Environmental Advisory Committee





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