



## **KEAC's mandate**

The Kativik Environmental Advisory Committee (KEAC) was established under Section 23 of the *James Bay and Northern Quebec Agreement* (JBNQA). The KEAC is an advisory body to the governments responsible for protecting the environment and social environment in Nunavik. To this end, it is the preferred and official forum for the governments of Canada and Quebec, the Kativik Regional Government, and the northern villages.

Under section 23.5.26 of the JBNQA, the KEAC “shall study existing or potential laws and regulations relating to the environment and the social environment that have an impact on development [...] that could directly affect the rights of Indigenous peoples established in accordance with Chapter 24 and this chapter, and shall propose any necessary amendments to the responsible governments, if applicable.”

## **Specific context of Nunavik and the treaty territories**

Article 2 of Bill 5 stipulates that the bill “applies subject to any law implementing the agreements referred to in section 1 of the *Act approving the James Bay and Northern Quebec Agreement* (chapter C-67) and section 1 of *the Act approving the Northeast Quebec Agreement* (chapter C-67.1).” Article 22 also states that the government cannot add Title II of the *Environment Quality Act* to Schedule I of Bill-5, which identifies the laws and regulations whose application may be modified by the government to expedite the completion of a designated project. The KEAC supports these sections and appreciates that the specificities of Nunavik and the JBNQA have been incorporated verbatim into Bill 5. However, this wording does not entirely exclude the application of Bill 5 in Nunavik. According to information received during the technical briefing on January 22, it appears that Bill 5 may apply to Nunavik should designated projects require permits or authorizations outside of processes noted in the JBNQA and the Northeast Quebec Agreement (NEQA), including the impact review procedures set out in Section 23.

## **Preparatory Work**

Article 12 of Bill 5 provides that the Minister may allow, “under the conditions he or she sets and notwithstanding any provision to the contrary, the preparatory work he or she determines and that may be carried out before the authorization is granted, after consulting with the proponent and the ministers, public bodies, and other parties concerned. When the Minister permits such work, he or she may designate the authority responsible for overseeing it if the Act does not already provide for it”. The KEAC wishes to emphasize that section 23.3.15 of the JBNQA prohibits a

development project from being implemented before the assessment and review process under Section 23 has been completed and a decision has been rendered. Consequently, the KEAC understands that, in accordance with section 2 of Bill 5, article 12 does not apply in the territory governed by Section 23 of the JBNQA.

### **Lands in the Domain of the State**

Article 48 of Bill 5 provides that the government may reserve lands on the domain of the State, “so that no right may be granted or no land use may be established under another Act that would limit the occupation of those lands or the carrying out of a designated project or of the activities necessary for its carrying out on those lands”. The KEAC understands that this land reserve will respect the rights provided for in the JBNQA

### **Communication with JBNQA Authorities**

Currently, the procedure for assessing and reviewing the environmental and social impacts of a project under Section 23 of the JBNQA does consider existing provincial regulations. For example, to determine whether a grey zone project is subject to the procedure, the Kativik Environmental Quality Commission (KEQC) may determine that the applicable regulations provide satisfactory environmental and social protection. Even for projects that are subject to the Section 23 procedure, the decision signed by the provincial administrator generally refers to the need to obtain “any other authorization required by any law or regulation and, where applicable, those that may be required under Title I of the *Environment Quality Act*”. The KEAC emphasizes that article 23.4.28 of the JBNQA stipulates that compliance with existing laws and regulations is an integral part of development projects in the region, which must be taken into account if a designated project is authorized. The committee would also like to highlight that the general provisions under Article 23.2.2 of the JBNQA mention the regime applicable to the region shall “provide for a special status and involvement for the [Indigenous people] and the other inhabitants of the Region over and above that provided for in procedures involving the general public through consultation or representative mechanisms wherever such is necessary to protect or give effect to the rights and guarantees in favour of the Native people established by and in accordance with the Agreement”. These general provisions apply independently from the procedures under Section 23. As such, they should be considered in the consultation strategy created for any development project in Nunavik that would be subject to Bill-5. The KEAC understands that section 3 provides that Bill 5 must be interpreted in a manner consistent with the duty to consult Indigenous communities.

## **Conclusion**

The KEAC understands that the environmental and social assessment procedure provided for in the JBNQA will apply to any project that may be designated under the provisions of Bill 5. A clearer reference should be added to the draft bill.

The KEAC also reiterates that the provisions and specificities described in the JBNQA will apply to any future national-scale projects that may be identified in Nunavik. Thus, the preparatory work provided for in article 12 of Bill 5 could not be authorized in the region, that land reserves provided for in article 48 will have to respect treaty rights in Nunavik, and articles 23.2.2 and 23.4.28 of the JBNQA will have to be respected at all times when analyzing development projects submitted under Bill 5.