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The Kativik Environmental Advisory Committee (KEAC) is the preferential and official forum for governments regarding the development of laws, regulations, and policies concerning environmental and social protection within the territory covered by the James Bay and Northern Quebec Agreement (JBNQA) and north of the 55th parallel. The JBNQA is a modern treaty recognized by the Constitution Act, 1982, and as such, the Government of Canada is required to respect the roles and mandates of the various committees established by this agreement. As such, the KEAC was invited by the Government of Canada on June 23 to provide feedback on the proposed reforms to laws, regulations, and policies aimed at streamlining the federal approval process for major projects.

The KEAC notes that, despite the clear provisions of the JBNQA on this matter, the Impact Assessment Act (and the Canadian Environmental Assessment Act that preceded it) is often applied to development projects in the region. This issue was notably raised [in the Committee's 2002](#) discussion paper regarding the doubling of federal environmental assessments of Nunavik projects, reiterated [in the 2013](#) letter regarding the multiplication of impact assessment procedures for the Hope's Advance Mining Project near the community of Aupaluk and detailed in [the 2022 report](#) of the Nunavik impact assessment working group. In this context, the KEAC is therefore worried that the proposed amendments could further complicate how projects are assessed in Nunavik. This situation undermines the legitimacy of the JBNQA. In fact, the Discussion Paper notes that the federal government's

proposals will not change environmental approval processes set out in modern treaties protected by the Constitution.

As such, the KEAC wishes to reiterate its recommendation that clear and sustainable steps be taken towards either the non-application of federal impact assessment legislation in Nunavik, or its harmonization with the processes under Section 23 of the JBNQA.

Furthermore, unlike the Impact Assessment Act, the environmental and social impact assessment procedures under Section 23 of the JBNQA provide mechanisms to ensure a special status for the Inuit, Cree and Naskapi nations during project assessments, guaranteeing them “greater participation than that normally provided for the general public,” and by establishing review committees, some of whose members are appointed by the Kativik Regional Government. The KEAC considers that respecting these bodies and the provisions of the JBNQA is the best way to achieve the Government of Canada’s partnership objectives of collaboration with Indigenous nations to ensure that their perspectives, knowledge and priorities are truly considered.

The KEAC welcomes the federal government’s proposal to provide for earlier and better-coordinated Indigenous consultations to limit redundant or parallel consultations. The creation of the Crown Consultation Hub within the Impact Assessment Agency of Canada, which will allow for better coordination with provincial processes and enable officials and proponents to access advice to improve their consultations, is a positive step. The KEAC is, however, concerned that the proposed acceleration of the federal process runs in direct contradiction to the rights and processes of the JBNQA and will impact the capacity of communities and organizations to meaningfully engage in environmental and social impact assessment procedures. The documents provided during impact assessments, particularly for large projects, are complex and technical, and often require the hiring of external resources. Communities have multiple responsibilities but limited resources. As such, the proposed accelerated timeline should be flexible and allow for adaptation to realities and limited resources of communities and local and regional organizations.

Regarding the proposals to establish a single Crown-Indigenous consultation process, a single decision per project, and a single project authority, the KEAC reiterates that section 23.7.6 of JBNQA establishes the principle that a development project may not be subject to more than one environmental and social impact assessment procedure: “... a project shall not be submitted to more than one (1) impact assessment and review procedure unless such a project falls within the jurisdictions of both Québec and Canada or unless such a project is located in part in the Region and in part elsewhere where an impact review process is required.”

The KEAC considers several of the proposed measures to streamline the regulatory framework are incompatible with the dispositions of Section 23 of the JBNQA. Some could undermine the rights and guarantees protected under Section 24. For example, the flexibilities regarding fish habitats and compensatory measures could have adverse consequences on the hunting, fishing, and trapping

rights guaranteed to the Inuit, Cree, and Naskapi. The committee also reiterates that article 23.4.28 of the JBNQA specifies that the proponent must obtain all permits and authorizations before work begins. As such, proposals to allow preparatory work before the issuance of the federal authorization would, therefore, be incompatible with the environmental and social protection regime that apply in Nunavik.

Regarding the proposal to conduct regional impact assessments, the KEAC recognizes that such assessments could improve understanding of cumulative effects within a given territory, gather Indigenous information and knowledge, and better guide projects through the establishment of specific development conditions. However, the KEAC notes that this proposal aims to eliminate project-by-project assessments in these areas. The committee wishes to emphasize that this proposal is inconsistent with article 23.3.12 of the JBNQA that states that “all developments listed in Schedule 1 shall automatically be subject to the impact assessment and review procedures”. No exceptions are provided, and the exemption of the project-based analysis could, therefore, not be applicable to Nunavik.

The committee also wishes to point out that the terminology used in the working document creates some confusion regarding the type of projects targeted by the proposed amendments. Some sections refer to “projects of national interest,” a term derived from the Building Canada Act, which refers to very specific projects that must be assessed by the Major Projects Office to obtain that status. Other sections of the document instead use the expression “major projects” without defining them. Elsewhere, the document refers to “all projects that can be achieved.” The KEAC considers it necessary to better define which projects are targeted by the proposed measures and to ensure that the terminology used in the proposed amendments is consistent.

In conclusion, the objectives pursued by the federal government with regards to improving the effectiveness of federal impact assessments must not come at the expense of the rights recognized by the JBNQA. The provisions and overriding nature of the environmental and social impact assessment regime established under the JBNQA must be respected. The KEAC remains committed to monitoring impact assessment processes in Nunavik and remains available to discuss the issues raised.

Best regards,

Pierre-Yves Gagnon

Pierre-Yves Gagnon
Chairperson, KEAC

cc. Mr. Hubbard, Federal Administrator, Section 23 of the JBNQA