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Les enjeux de la filière uranifère au Québec
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Brief

Presented to:

The Bureau d'audiences publiques sur l'environnement (BAPE)

and to

The Kativik Environmental Advisory Committee (KEAC)

Public Consultation on the Uranium Industry in Quebec

Presented by:

Makivik Corporation and the Kativik Regional Government

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1. Introduction

In response to public concerns about uranium mining, on March 3, 2014, the Ministère du Développement durable, Environnement et lutte contre les changements climatiques (MDDELCC) gave the Bureau d'audiences publiques sur l'environnement (BAPE) the mandate to hold public hearings on the challenges and issues involved with the exploration, exploitation and management of uranium throughout Quebec. For Nunavik, the consultation process is conducted in collaboration with the Kativik Environmental Advisory Committee (KEAC).

The mandate given to BAPE and the KEAC is not to review any specific exploration or mining project but rather it is to gauge public opinion and the social acceptability of developing a uranium industry in Quebec.

This brief is presented jointly by Makivik Corporation and the Kativik Regional Government. The position herein adopted by Makivik Corporation and the Kativik Regional Government is based on the representations made by Nunavimmiut during the Pre-consultation and Information Exchange phases of the consultation process held in Kuujjuaq and Kangiqsualujjuaq. It is not intended to discuss specific technical aspects or engage in a critique of the current science surrounding the matter of uranium exploration, exploitation, decommissioning or waste management.

2. Makivik Corporation and the Kativik Regional Government

a) Makivik Corporation

Makivik Corporation was established in 1978 under the Act respecting the Makivik Corporation following the signing of the James Bay and Northern Quebec Agreement (JBNQA). It is the successor of the Northern Quebec Inuit Association, a signatory of the JBNQA and the Native party recognized to represent its members, the approximately 11,000 Inuit of Nunavik and to protect and promote their rights under the JBNQA. Its board of directors is composed of 21 elected members who are Inuit beneficiaries of the JBNQA. These include 5 officers elected by universal suffrage by all eligible Inuit Beneficiaries of the JBNQA and 16 members elected by eligible voters of each of the Inuit communities.

Makivik Corporation is also the signatory to the 2008 Nunavik Inuit Land Claims Agreement entered into between Makivik on behalf of Nunavik Inuit, the Government of Canada and the Government of Nunavut.

Makivik Corporation is a non-profit corporation with the following objectives:

- a) to receive, administer, use and invest the part, intended for the Inuit, of the compensation provided for in subsections 25.1 and*

- 25.2 of the Agreement and the revenues therefrom, as well as all its other funds, in accordance with this Act;*
- b) to relieve poverty and to promote the welfare and the advancement of education of the Inuit;*
 - c) to develop and improve the Inuit communities and to improve their means of action;*
 - d) to exercise the functions vested in it by other acts or the Agreement;*
 - e) to foster, promote, protect and assist in preserving the Inuit way of life, values and traditions.¹*

In addition to the JBNQA, Makivik has also signed other treaties and agreements with the governments of Canada, Quebec and Nunavut as well as other indigenous nations. In the mining sector, Makivik is also a party to agreements on the impact and benefits (IBA) with mining companies that are active in Nunavik.

As the Inuit Development Corporation, Makivik also owns several subsidiary companies in various fields including, among others, air transport, construction, shipping, fisheries and communications.

b) Kativik Regional Government

The Kativik Regional Government (KRG) is a non-ethnic public organization created in 1978 following the signing of the *James Bay and Northern Québec Agreement* (JBNQA). Pursuant to the *Act respecting Northern Villages and the Kativik Regional Government* (CQLR, c. V-6.1), known as the Kativik Act, the KRG has jurisdiction over the Kativik Region. Covering roughly 500,000 km², the Kativik Region is the territory of Québec north of the 55th parallel, with the exception of the Category IA and IB lands of the Cree community of Whapmagoostui. The Kativik Region includes 14 communities with a total population of approximately 12,090. The KRG acts as a municipality for any part of the territory that is unorganized (Kativik Act, sect. 244).

The mandates conferred to the KRG through the Kativik Act or through agreements with the governments relate in particular to: municipal and regional matters, transportation, communications, policing and civil security, employment and labour training, technical assistance for the northern villages, sports and recreation, childcare, land use planning, environmental protection, parks development and management, hunting, fishing and trapping support, and wildlife protection.

In 2003, under the *Act respecting the Ministère des Affaires municipales, des Régions et de l'Occupation du territoire* (CQLR, c. M-22.1), the KRG was designated as the Regional Conference of Elected Officers for the Kativik Region (sect. 21.5). Regional

¹ Section 5 of An Act Respecting the Makivik Corporation, CQLR, c. S-18.1.

conferences of elected officers are the primary interlocutor of the Québec government regarding regional development for the territory or community they represent.

3. The Nunavik Region

For the purpose of this brief, Nunavik refers to the area in Québec which is located north the 55th parallel in Quebec, excluding Category 1 and 2 lands of the Crees of Whapmagoostui².

The fourteen northern villages, with populations ranging from 200 to 2500 inhabitants, are not connected to each other or to the south by road or railway. Transportation of people and goods is done by air and sea.

Nunavik Inuit use the land extensively to pursue subsistence harvesting activities such as hunting, fishing, and trapping and continued access to those activities is of paramount importance to them. Not only the JBNQA contains provisions guaranteeing the right to conduct these activities but the protection and promotion of harvesting and associated activities are at its core.

However, despite their importance in everyday life, these land based activities are not in themselves sufficient to ensure the well-being of the Nunavik Inuit and many have different aspirations. Needs have changed and access to education, skills development in various fields, business development and employment opportunities have also become necessities in today's world.

The cost of living in Nunavik is very high and the region faces major economic and social challenges including but not limited to low school performance, high school dropout rates, unemployment, elevated suicide rates, a housing shortage and overcrowding.

To allow greater access to economic opportunities and improving the quality of life of Nunavimmiut the Partnership Agreement on Economic and Community Development in Nunavik (Sanarrutik) was signed in 2002 by the Makivik Corporation, the Kativik Regional Government and the Government of Quebec. Mining was identified as an important sector for development.

The remote location of Nunavik, its challenging climate, limited infrastructure and transportation access are such that there is little industry in this vast region. There are currently two operating mines in Nunavik: the Glencore Raglan property and the Nunavik Nickel Project Canadian Royalties property. However, only the Raglan mine is in full operation.

² Section 23.1.8 of the JBNQA. However Category 2 lands are under the jurisdiction of the Kativik Regional Government.

Makivik Corporation recognizes the importance of economic development in the territory of Nunavik and believes that the mining industry, provided that activities are conducted in a socially and environmentally responsible manner and fully respect the treaty rights of Nunavik Inuit, can be an important tool for economic and social development. On November 19, 2014 Makivik Corporation released its policy on mining in Nunavik. The *Nunavik Inuit Mining Policy* will support mining development in Nunavik that is responsible and equitable, meaning that Nunavik Inuit must derive significant benefits during the exploration, development, operation and restoration phases of mining activities and that these activities take into account the Nunavik Inuit way of life and are carried out in accordance with Nunavik Inuit rights and the JBNQA as well as with all applicable federal and provincial legislation respecting environmental and social protection.

However, as will be set out in this brief, uranium is a controversial topic and must be considered separately from conventional mining activities exploiting other minerals in Nunavik.

4. The Legal Framework

The James Bay and Northern Quebec Agreement (JBNQA)

The JBNQA, which was signed in 1975 as an out of court settlement in a long legal debate that began following the announcement by Quebec of its decision to initiate the development of Northern Quebec water resources for hydroelectric purposes, guarantees, among other things, rights to the Inuit of Nunavik in the Nunavik territory.

The JBNQA being a treaty, Inuit rights derived therefrom are recognized and protected by sections 35 and 52 [of the Constitution Act, 1982] which take precedence over conflicting legislation. Moreover, in 1976, even before the adoption of the Constitution Act, 1982, the National Assembly adopted the Act approving the Agreement concerning James Bay and Northern Quebec³ where it is stated that:

“2. (1) The Agreement is hereby approved, given effect to and declared valid.

(2) The beneficiaries of the Agreement are hereby acknowledged to have the rights, privileges and benefits granted to them by the said Agreement; the legislative and administrative measures provided for in the Agreement shall be adopted in accordance with its terms.

[...]

6. In case of conflict or inconsistency, this Act shall prevail over any other

³ Q.R.S., c. C-67.

Act applicable to the territory described in the Agreement to the extent necessary to resolve the conflict or inconsistency."

Also Chapter 23 of the JBNQA an environmental and social protection regime applicable to Nunavik which provides, at section 23.2.2, as follows:

"a) A procedure whereby environmental and social laws and regulations and land use regulations may from time to time be adopted if necessary to minimize the negative impact of development in or affecting the Region upon the Native people and the wildlife resources of the Region;

b) An environmental and social impact assessment and review procedure established to minimize the negative environmental and social impact of development on the Native people and the wildlife resources of the Region;

c) A special status and involvement for the Native 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 favor of the Native people established by and in accordance with the Agreement;

d) The protection of the rights and guarantees of the Native people established by and in accordance with Section 24;

e) The protection of the Native people, their economies and the wildlife resources upon which they depend;

f) The right to develop in the Region;

g) The protection of the rights and guarantees of the Naskapis of Quebec established by and in accordance with the Hunting, Fishing and Trapping Regime referred to in paragraph 15.2.1 of the Northeastern Quebec Agreement."

Also, within Chapter 23, the JBNQA provides as follow:

23.2.4 The concerned responsible governments and the agencies created in virtue of this Section shall within the limits of their respective jurisdictions or functions, as the case may be, give due consideration to the following guiding principles:

- a) *The protection of Native people, societies, communities and economies, with respect to developmental activity affecting the Region;*
- b) *The environmental and social protection regime with respect to minimizing the impacts on the Native people by developmental activity affecting the region;*
- c) *The protection of the hunting, fishing and trapping rights of Native people in the Region and their other rights therein with respect to developmental activity affecting the Region;*
- d) *The protection of wildlife resources, physical and biotic environment, and ecological systems in the Region with respect to developmental activity affecting the Region;*
- e) *The involvement of the Native people and other inhabitants of the Region in the application of this regime;*
- f) *The rights and interests of non-Native people, whatever they may be;*
- g) *The right to develop, in accordance with the provisions of the Agreement, by persons acting lawfully in the Region;*
- h) *The minimizing of negative environmental and social impacts of development on Native people and non-Native people and on Native and non-Native communities by reasonable means with special reference to those measures proposed, recommended or determined by the impact assessment and review procedures. "*

Finally, the JBNQA provides for the establishment of the Environmental Quality Commission which shall be an official body responsible for participating in the administration and supervision of the environmental and social impact assessment process in the region with respect to matters and to development projects within provincial jurisdiction.

When assessing a project, the Commission is guided by the following principles:

"23.3.19 The EQC shall take into account, but shall not be limited to, when evaluating or assessing each impact statement, the following considerations and shall give in its discretion such weight to each consideration as it deems appropriate:

- a) *The environmental and social impact of the development both beneficial and adverse;*

- b) *Environmental adversities which cannot be avoided through present technological means and environmental adversities which were chosen not to be fully abated and the proponent's proposals to counterbalance such adversities;*
- c) *Reasonable measures available to avoid or minimize adverse effects or to enhance beneficial effects;*
- d) *Reasonable alternatives to the development as proposed and when appropriate reasonable alternatives to the proposed development;*
- e) *The methods and procedures outlined by the proponent to adequately monitor emissions of contaminants or other environmental problems, where required;*
- f) *Relationship of the proposed development to applicable existing or proposed environmental laws and regulations;*
- g) *The methods or procedures outlined by the proponent to be put into effect in the event of accidents.”*

The Quebec Mining Act

On December 10, 2013, *An Act to amend the Mining Act* (Bill 70) was tabled by the Minister of Natural Resources and adopted by the Québec National Assembly. With the adoption of Bill 70, a number of changes that had been proposed during past attempts to reform the *Mining Act* will be implemented, including that mining companies are required to report any discovery of uranium ore:

“Sec. 81.1 - A claim holder is required to declare to the Minister any discovery of mineral substances containing 0.1% or more of triuranium octaoxyde within 90 days after the discovery.”

5. The Makivik Corporation and Kativik Regional Government Position

Based on the current state of knowledge concerning the effects and risks associated with uranium exploration, exploitation and waste management and particularly given the fact that Nunavik Inuit continue to rely on country food (including migratory species such as caribou) Makivik Corporation and the Kativik Regional Government are opposed to any such activity in Nunavik.

During Phase One and Phase Two of the BAPE/KEAC consultations, community and regional organizations as well as Nunavimmiut clearly expressed their concerns regarding impacts of uranium mining activities on the environment including wildlife, subsistence harvesting and food security, human health and well-being.

People are also preoccupied by the lack of monitoring and intervention measures in relation to uranium mining activities.

These concerns are also exacerbated by the difficulty to find objective information available in English, French and Inuktitut, the mother tongue of many unilingual Inuit and the limited expertise available to assess technical data and reports.

Impacts on the Environment, Wildlife, Subsistence Harvesting and Food Security

During the hearings held in Kuujjuaq and Kangiqsualujjuaq people reported the following:

“I would be afraid if there is uranium mining in our region. What is to say that my kids or my grandchildren are not going to be eating geese and caribou meat that are contaminated.” (Kuujjuaq official)

“And so, for having a uranium mine in the region that could impact not only humans, it would also impact wildlife. I totally disagree with even thinking of opening a uranium mine nearby our community.” (Kangiqsualujjuaq Elder)

Harvesting activities are of crucial importance for Nunavik Inuit. Nunavik Inuit rely on country food for a good portion of their food and for their cultural identity. The practice of harvesting is essential today for food security in the communities. “Country Food” is not only a preferred diet but has also been proven more nutritious than store-bought foods. The high cost of store-bought foods also makes harvesting essential for many families.

It has been demonstrated that the Kangiqsualujjuaq area holds uranium potential that mainly yields low uranium concentrations. If any operations were developed, it would mean that huge volume of extraction would give way to large open pit sites. As illustrated by governmental surveys and industry fieldwork reports, the majority of uranium anomalies and showings are located in proximity to Kangiqsualujjuaq Category I and II lands, which are areas important for harvesting.

“Mining always has impacts – imagine what uranium could do.” (Kuujjuaq elder)

Human health and well-being

“The word that we use for uranium is “nungujittuk”, meaning it is something that will never perish. It will be there forever. And it is a very strong word and it always catches

everyone's attention when we use that word. What are the impacts on health? Whether it would be the one working at the mining site, the impacts on health even after the mining has closed, how much can it affect our health?" (Kuuujuaq official)

"So it will make us very concerned. I know that we are not going to understand it today, but we will still be concerned, and I think that we have to focus on the future and our next generation, and to protect our next generation and our wildlife." (Regional health official)

As part of the determination of social acceptability, the psychological effects cannot be underestimated. People are afraid of uranium in general, but when a population is so dependent on locally sourced food, the fear and uncertainty escalate.

It is known and recognized that Canadian arctic populations are subjected to industrial chemical contamination. Study results from the federal Northern Contaminants Program reveal that eastern Arctic communities are the most affected by contaminants.⁴ High levels of polychlorinated biphenyls (PCBs) and mercury are found in blood samples taken from northern populations with the most affected populations being from Nunavut and Nunavik. These documented high contamination levels and their sources are usually not derived from the immediate surroundings of communities, but coming from greater distances and accumulate in the food chain. Eventual uranium mining activities around communities would bring additional contaminants sources and contribute to an increase in health problems to Nunavimmiut.

Monitoring and Intervention

"Listening to this is very hard – we were drilling without masks and samples were left in an unsupervised cabin for anyone to touch". (An Inuk worker in a uranium exploration camp, Kangiqsualujuaq)

"Mining Companies always say it's no problem and because there are regulations it is safe. I don't believe you." (Kuuujuaq elder)

After having been introduced to regulations and monitoring measures on nuclear energy and uranium mining development operations by the Canadian Nuclear Safety Commission, Nunavimmiut learned that there is no systematic monitoring of any uranium exploration activities carried out on the provincial level. Despite the environmental and social protection regime provided in the JBNQA, the Quebec

⁴ www.aadnc.aandc.gc.ca

government is confronted with a lack of resources to guide and monitor the industry practices. For now, uranium exploration projects are not subjected to surveillance, except for projects involving more than 1,000 m³ excavated material, access ramp development, or underground works. The government relies on the industries good faith.

Nunavik is a very remote area which is difficult and expensive to access. Even with adequate regulatory measures, it is not at all clear if the capacity of governmental authorities exists to actually properly monitor uranium mining activities and enforce regulations in Nunavik. Equally unclear is the capacity of agencies to respond to an accident or emergency in an effective and timely manner.

With too many unknown details on uranium exploration and exploitation, and despite regulations, measures, and control on uranium activities, many concerns arise about the uranium industry environmental practices.

Consultation and information

“We need to be told the honest truth; because this is our hunting ground you are playing with. This part of the country from the shore to the inland, we have been living in it for over four hundred (400) years.” (Kangiqsualujjuaq elder)

“And so even if it is in the water or inland, as communities we need to know what is happening truthfully, transparently, whether it is in Kangiqsualujjuaq or Kuujjuaq, and to be very involved in the early stages of development. We want total transparency, especially if there is going to be interest in the future.” (Kangiqsualujjuaq elder)

“We cannot comment intelligently on something we know nothing about.” (Kuujjuaq business person)

Nunavimmiut want more communication from governmental bodies and the industry when it comes to uranium projects. The efforts of the BAPE and the KEAC are appreciated however the information provided was not satisfactory. Until much more is known about the uranium industry and the information provided to Nunavik Inuit in a comprehensible way, in their language, it is not possible to make an informed decision.

This is not the first time Nunavik Inuit and their representative organizations have engaged in discussions on the nuclear industry. In 2005 Makivik Corporation, along with representatives of all other Inuit regions in Canada participated in the consultations conducted by the Nuclear Waste Management Organization. In August 2005 the Inuit Tapiriit Kanatami (the national Inuit organization) produced a report entitled “ITK Review of NWMO – Choosing a Way Forward” which contains the following.

“We are left with the uneasy feeling that this huge and expensive effort [the NWMO consultation] is leading to a conclusion that collectively, as a society, we just don’t yet know enough about how to safely manage nuclear fuel waste and yet, at the same time, will continue to produce it. The responsibility for decision-making is being pushed forward to future generations with the hope that science will have advanced to a point where more precise solutions are conceivable.

In our *Final Report on the National Inuit-specific Dialogues on the Long-term Management of Nuclear Waste in Canada* ⁵ITK advocates for a non-nuclear society in Canada where nuclear materials are neither mined, produced or transformed. We understand that this was not the mandate given to NWMO. However, from the Inuit perspective, the long-term management of nuclear fuel is simply a component of the much larger issue of meeting Canada’s energy needs into the future. Looking at the issue holistically requires consideration of broader questions of the role of hydrocarbons, nuclear fuel and renewables in the overall energy production picture. It is for this reason that Inuit brought forward recommendations related to alternative sources of energy that could eliminate the need to continue reliance on nuclear fuel.”

6. Conclusion

Makivik Corporation and the Kativik Regional Government are opposed to any uranium exploration, exploitation and waste management activities in Nunavik. There appears to be a strong consensus among Nunavimmiut and regional and local organizations that the development of the uranium industry in Nunavik is currently not socially acceptable based on the significant uncertainties surrounding the industry. More precisely:

- The state of knowledge is limited and many contradictions exist;
- The debilitating effects of fear created by the perceived danger of the development of an active Nunavik uranium industry must be taken into account;
- The risks from the entire uranium production chain are not well known, understood or communicated;
- It is not clear whether regulatory agencies, however well intentioned, have the resources and capacity to monitor activities related to the uranium industry, and to intervene and enforce regulations in such a remote area;
- Nunavik has specific characteristics – immense watersheds, migratory wildlife resources, permafrost, bedrock etc. making it very difficult to import experiences from other regions;

⁵ Available at www.nwma.ca

- Inuit continue to depend on wildlife for a significant portion of their food. Much of the wildlife they harvest is migratory (caribou, fish, migratory birds) and any local contamination will therefore affect the food source for other communities;
- Because Inuit rely on wildlife for food, an effect on wildlife can also have a direct effect on human health;
- Arctic ecosystems are fragile and rebound very slowly, if ever in some instances. As uranium disintegrates very slowly impacts will be multi-generational, and
- As responsible global citizens, Nunavimmiut are concerned with the potential use of uranium in the production of nuclear weapons, despite Canada ratifying the Treaty on the Non-Proliferation of Nuclear Weapons in 1969⁶.

Finally, while perhaps outside of the scope of the BAPE/KEAC mandate, Makivik Corporation and the Kativik Regional Government continue to insist that Quebec and its citizens would be much better served by promoting energy production from other sources, hydroelectricity, tidal bores and wind generation being the most obvious.

⁶ Available at www.international.gc.ca

