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Summary of the Meeting of the Technical Advisory Committee on Science and Knowledge

March 3-4, 2020

Vancouver

Meeting Objectives

The two main objectives of the March meeting were to: 1) obtain advice on the approach proposed in the draft “Interim Policy Framework on Strategic Assessment”; and 2) receive advice from the Committee on how to best scope assessments under the *Impact Assessment Act*. The agenda also included a preliminary discussion to solicit input on monitoring and adaptive management.

In addition to the discussion topics, the meeting included two presentations: 1) from BC Hydro on their approach to project assessment, and 2) from the B.C. Environmental Assessment Office on the province’s new Environmental Assessment Act.

These topical discussions were preceded by an update by the Agency and followed by a discussion of the Committee’s forward agenda.

Day 1 – March 3, 2020

Welcome and Debrief

The Agency's Ex-Officio member of the Committee welcomed members and opened with an acknowledgement that the meeting was held on the unceded territories of the Musqueam, Squamish, and Tsleil-Waututh nations.

The Ex-Officio member stated that input received from the Committee on the draft document on Health, Social and Economic Effects Analysis was useful in revising the Agency's proposed approach. Specifically, the input helped to enhance the report's perspective on Indigenous communities and vulnerable groups. The document now also includes a new section on direct, indirect and induced economic effects. He also updated the Committee on the framework for the review of the science used in impact assessment, which will be conducted by the Office of Canada's Chief Science Advisor (OCSA (Office of Canada's Chief Science Advisor)). The framework had been presented at the Committee's September 2019 meeting by the OCSA (Office of Canada's Chief Science Advisor), which had subsequently revised the framework for the review and was now carrying out further consultations.

Updates on Recent Events and Developments

The Ex-Officio member provided a debrief of the January 2020 meeting of the Indigenous Advisory Committee (IAC (Indigenous Advisory Committee)). At the meeting in Montreal, IAC (Indigenous Advisory Committee) discussed key principles of inclusion and protection for Indigenous knowledge and finalized the structure for a working group to work on an Indigenous Policy Framework.

The Ex-Officio member indicated that a joint IAC (Indigenous Advisory Committee)-TAC (Technical Advisory Committee) meeting was planned for 10 June 2020 at which results from an Agency-funded research contract on

Indigenous knowledge and science will be discussed.

Responding to the Committee's interest in the topic, the Ex-Officio member updated the Committee on the Strategic Assessment of Thermal Coal Mining and the Regional Assessment of Offshore Oil and Gas Exploratory Drilling East of Newfoundland and Labrador. The Minister of Environment and Climate Change announced a strategic assessment of thermal coal mining in December 2019. In addition to economic market analysis, the assessment will look into impacts on health as well as on Canada's international commitments and initiatives. The regional assessment in Newfoundland has progressed well with the Regional Assessment Committee releasing the final report on February 29, 2020. The second regional assessment, involving the Ring of Fire area (Northern Ontario) is still at the planning stage.

Between the sessions on the two main agenda items of the day, two representatives from BC Hydro made a presentation on their experience with project assessments.

Agenda Item: Strategic Assessment

The Ex-Officio member presented a brief outline of the interim policy framework on strategic assessment that the Agency drafted. The Agency had held a workshop in November 2019 to obtain initial views from experts in the field, leading to the development of the current draft. Based on the Committee's feedback, the draft will be revised and is targeted to be published on the Agency's website in the spring of 2020.

The Committee was given the following questions for guiding the discussion:

- Is the proposed fundamental distinction between regional and strategic assessments clear?

- Is the emphasis on the “strategic” nature of strategic assessments clear in interim policy?
- What is good and should be kept and what would you like changed: Are there fundamental aspects of the policy that you feel are missing? Conversely, are there fundamental aspects of the policy that you strongly support?

The Committee expressed the following viewpoints while responding to the questions:

- Neither the definition nor the objective of strategic assessment is sufficiently clear in the interim policy document. A major question the document needs to address is whether a strategic assessment will inform the project assessment or much broader issues beyond a project. It should be acknowledged that strategic assessment is not a technical, neutral exercise, and will have political implications.
- The Committee asked that the Agency further clarify the difference between strategic and regional assessments to clarify the utility of one versus the other. Geographic boundary was felt to be a weak criterion to distinguish between the two given that every type of assessment has a boundary.
- A way to distinguish between the two would be to focus on the issues and outcomes. A strategic assessment would focus on assessing important issues, some specific activities, or a sector of a region; by contrast, a regional assessment could cover all human activities within the study region.
- In terms of outcomes, it was felt that the Agency needs to define what is driving the strategic assessment and what it is expected to achieve. A distinguishing characteristic of a strategic assessment is the inherent orientation of the assessment toward focus on the future. What is really driving the strategic assessment and what is really expected to

achieve? A clear view of outcomes should also be accompanied by a clear scheme of distributing the benefits created.

- Strategic assessment, as it relates to impact assessment, takes two forms: 1) assessments of Government of Canada policies, plans or programs (PPPs), and 2) assessments of issues linked to designated projects. The first type will not influence project assessments as its primary objective is to inform the PPPs. The policy should be clear about whether it addresses the application to both PPPs and issues or if it is focussed on issues.
- The strategic nature of a strategic assessment cannot be a determining factor to distinguish between it and regional assessments. Practitioners and others need to understand what is meant by strategic and for what purpose a strategic assessment is initiated. There needs to be a clear definition of the term strategic assessment. The objective of the strategic assessment should not be pre-defined. Objectives should be identified based on public consultations and expert advice.
- The draft document is jargon-heavy; to increase its usefulness, technical language should be avoided wherever possible. Good examples of strategic or regional assessments from the resource sector, even if they are theoretical, will help practitioners.
- The policy document and other related guidance should be linked with other operational guides on the Agency's website. This measure will help the public to narrow down what could be in scope in terms of requests for strategic assessments to the Minister of Environment and Climate Change.
- Expanding the scope of regional assessments to emerging industry sectors or new technologies was generally commended.
- Another gap identified relates to the role of committees in strategic assessments. A strategic assessment led by the Agency could

transcend the boundaries of multiple jurisdictions. Within this context, clarity will be needed on who would determine the composition of committees as well as how the committees would relate to the Agency.

- It will be important to think about how the public will be engaged, for example, to avoid entrenchment
- The Committee concluded that it would be prudent for the Agency to clearly establish what a strategic assessment is, before moving on to the next steps of determining how it should be implemented.

Agenda Item: Scoping

An Agency official explained the legislative requirements for the scope of factors to be considered in an impact assessment. The Committee discussed the questions below.

Discussion Questions from TAC (Technical Advisory Committee) Lead:

- What should a good scoping achieve?
- What should a good tailoring achieve?
- What best practices examples of scoping do you have?
- How can we facilitate a real scoping exercise within the tailored impact statement guidelines process

Discussion Questions from the Agency:

- How should the Agency define scoping principles in relation to the factors to consider?
- How can the Agency better engage communities in scoping – for example, through the use of the Summary of Issues?
- What new criteria, methods and approaches could assist in identifying the key valued components that are most likely to affect project decisions?

- Under the Act, most projects will include assessments of pre-existing social and economic issues, or choices made by individuals, that will be influenced by factors beyond a proponent's control, but nevertheless may be relevant to a project's public interest determination. How should the Agency approach scoping these factors?

The discussion was opened with a presentation by the TAC (Technical Advisory Committee) lead, which incorporated comments received by TAC (Technical Advisory Committee) members. Before the meeting, there was agreement from all TAC (Technical Advisory Committee) members about the importance of doing a good job of scoping, however, there were many perspectives shared about how, when, and by who should do the scoping exercise. During the discussion the following points were discussed:

- There was agreement that the overall objective of scoping should be to focus the impact assessment on the most important issues. The scoping should be based on the direction in the *Impact Assessment Act* (e.g., s. 22), including working backwards from what the Act requires for decision-making. As well, a good scoping should focus on the key interests or concerns raised by stakeholders, communities and Indigenous groups (e.g. valued components). While there was agreement that the assessment should focus on the most important issues, some members felt that the other issues should not necessarily be scoped out.
- There was also agreement that there would be challenges to conducting a good scoping, allowing for sufficient engagement, within the 180 days time limit allocated for the planning phase under the *Impact Assessment Act*. As a remedy, some members recommended that a "zero" phase could be conducted by the proponent preceding the planning phase.

- In terms of the difference between scoping and tailoring, members observed that, in the context of the *Impact Assessment Act*, scoping is an exercise to identify important issues and tailoring is the outcome, such as the production of the Tailored Impact Statement Guidelines. Tailoring marks a shift from the more generic templates used in past assessments to more tailored processes, specific to the project as well as priorities raised by communities.
- Different participants in the impact assessment process will bring different perspectives and objectives to the scoping exercise. For example, the local community may be most interested in it reflecting the specifics about the community and the environment. It will be seeking transparency in terms of what issues are prioritized as a result of the scoping, and those that are assigned a lesser priority. The government agency managing the impact assessment will above all want to ensure that it is conducted in a manner consistent with its legislation.
- Best practices for the engagement of communities and Indigenous groups were discussed. For example, it was emphasized that the proponent will need to build trust before people would be willing to participate in a scoping exercise. It was also suggested that proponents begin the exercise by asking about priorities, rather than asking about all issues, so that the community is actively involved in determining the issues that will be explored in the assessment. Further, it was deemed to be critical that there be transparency on which issues will be on the focus of the assessment process and which will be accorded a lesser priority. Trust is often eroded when government agencies do not explain the rationale for these decisions.
- It was noted that Indigenous groups would have a different perspective on valued components and these should not just be

slotted under categories defined according to traditional western science.

- It will be important to map the priorities to identify which ones are under proponent control (e.g., work site hours and shifts) versus others that may best be acted on by others (e.g., improving community access to health care services may be best acted on by the province).
- There are not many best practice examples of scoping owing to the use of standard terms of reference in past EA (environmental assessment) processes that did not tailor impact assessments according to the specifics of the project. Some good examples may be drawn from the Eastmain 1-A and Rupert Diversion project (Quebec) and the Environmental Impact Review of the Gahcho Kué Diamond Mine project (Northwest Territories).
- Early and full engagement is critical in facilitating a scoping exercise, however, many thought that the process of scoping would need to continue throughout the impact assessment process. There can be valid reasons why the scope of an assessment may need to be changed later in the assessment process (e.g., after the issuance of the Tailored Impact Statement Guidelines in the case of the *Impact Assessment Act*). It was noted that impact assessment is an iterative process and that new issues can arise in the course of the assessment. Others thought that the Tailored Impact Statement Guidelines should specify what needs to be studied and that subsequent changes would be unfair to the proponent and that making changes to the Guidelines late in the process would result in conflict with specified timelines for panels.
- A transparent and flexible plan for future engagement and community buy-in on the scope will help both build trust in the assessment process while keeping a focus on the most important issues. It was felt

that the *Impact Assessment Act* had the tools to support these objectives.

- Clarity is required around the role of review panels. For example, panels may address broader questions beyond the Tailored Impact Statement Guidelines.
- It was felt that those conducting impact assessments would benefit from more tools related to scoping. The Committee identified scoping as an issue that should be placed on its forward work plan.

Day 2 – March 4, 2019

The day was opened with a presentation on the new Environmental Assessment Act of British Columbia by a representative from the B.C. Environmental Assessment Office.

Agenda item: Follow-Up

The Agency distributed two draft policy products ahead of the meeting for discussion: 1) a draft fact-sheet on follow-up, monitoring and adaptive management; and 2) a draft outline for adaptive management guidance. Members were also provided background research conducted for the Agency as well as the following discussion questions to guide the conversation.

Discussion Questions from the Agency:

- How should adaptive management be defined in the context of impact assessment?
- Should adaptive management plans be required as a condition for all follow-up programs? If not, what factors or circumstances should the Agency take into account when determining whether to recommend an adaptive management plan as a potential condition?

- What typical criteria can be used to help determine the effectiveness of mitigation in follow-up?
- Under what circumstances should Independent Environmental Monitors be considered as a potential condition to the Minister?
- How should the Agency promote/support effective community-based monitoring programs that meet communities' objectives and inform decision-making?

The discussion was opened with a presentation by the TAC (Technical Advisory Committee) lead and summary of the input provided on the discussion questions ahead of the meeting. This led to a preliminary discussion on the topic and agreed to undertake a more fulsome discussion in the future.

Committee members noted the following:

- In discussing when adaptive management is appropriate, one member suggested that adaptive management should be used when there is uncertainty to resolve, there is a management lever (i.e. mitigation measure or enhancement measure), and there are plausible options to choose from. Another member suggested that adaptive management should be used if the project is adaptable and if there is risk and uncertainty.
- Adaptive management also has role in the predictive phase of the assessment to determine the adaptability of the proposed project. The less adaptable the project, the more precautionary predictions need to be in the face of uncertainty.
- One member suggested that adaptive management does not apply to all project components but is a useful tool for many. Some other members argued that all projects have uncertainties and therefore should require adaptive management.

- One member suggested that adaptive management should not be used as a method of coping with flawed methodologies or important uncertainties that should be addressed upfront, prior to finalizing an assessment.
- Follow-up and adaptive management has focused more on biophysical effects than on socioeconomic and cultural effects or project benefits. Adaptive management could, for example, be relevant to adjust work schedules if they are found not to be working successfully.
- During discussion of the Agency's draft Fact-sheet, one member stated that the definition of follow-up programs is missing the management link, noting that the international impact assessment community is clear that management is part of follow-up.

It is important for the Agency's fact sheet to distinguish among different types of monitoring (e.g. follow-up monitoring, compliance monitoring and baseline monitoring).

- It is important, when designing monitoring programs, to consider how the data and information will be used.
- One member suggested that independent environmental monitors are not necessary as they may be perceived as unfair to project proponents and that they may not be trusted despite their independence. Some felt that the participation of local communities may be the better way to ensure trust, while others supported using independent environmental monitors, suggesting that they could save proponents money and that there are benefits to having a liaison between project proponents and affected communities.
- In discussing monitoring, one member suggested that monitoring should take place when there is uncertainty and the consequences of the uncertainty could be significant. Furthermore, it is important that the monitoring be able to influence the management of the project.

- Another member added that monitoring programs can benefit from having a mechanism to revisit and update them to add new indicators and remove those that are no longer relevant or useful. New indicators are often added to monitoring programs, but those that are no longer needed are rarely subtracted.

One member indicated that it is important for adaptive management plans, especially those managing risks and uncertainties (e.g. tailings, closure plans) to specify timelines for addressing particular issues.

Agenda Item: Future Priorities

The President of the Agency, David McGovern, attended this closing session. The President engaged in a dialogue with the Committee on how its work plan aligned with the priorities of the Agency. The Committee will be looking to identify a few issues to pursue over the next year.

Members noted that for future meetings, the Committee should pick a maximum of two substantive issues – one per day – with some flexibility to accommodate one more. The Committee identified a number of topics that they would like to revisit at subsequent meetings, including:

- Criteria for selecting strategic assessments;
- Tools and methods to conduct good scoping; and
- Adaptive management and monitoring.

Attendees

Co-Chairs

Kevin Hanna

Darcy Pickard

Committee Members

Alistair MacDonald

Bill Ross

Gillian Donald

Glennis Lewis

Helga Shield

Marie Lagimodiere

Mark Shrimpton

Meinhard Doelle

Michel Bérubé

Regrets

Colin Webster

Hugo Mailhot Couture

Impact Assessment Agency of Canada

David McGovern

Brent Parker

Regina Wright

Miriam Padolsky

Robyn Whittaker

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