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Summary of the Meeting of the Technical Advisory Committee on Science and Knowledge December 3-4, 2019 Ottawa

Meeting Objectives

The objectives of the December meeting of the Technical Advisory Committee were to review and obtain feedback on the draft document, “Interim Guidance: Health, Social and Economic Effects Analysis under the *Impact Assessment Act*,” and to discuss a proposed approach to assessing the “Extent of Significance” under the *Impact Assessment Act*. The committee was also requested to provide additional written comments including on the draft guidance on Federal Lands following the meeting.

These topical discussions were preceded by an update by the Agency and followed by a discussion on the Committee’s forward work plan.

Day 1 – December 3, 2019

Welcome and Debrief

The Agency's non-voting Ex-Officio member of the Committee welcomed members and opened with an acknowledgement that the meeting was being held on unceded Algonquin and Anishinabek territory.

The Ex-Officio member informed the Committee that since the last meeting the Agency had signed a number of Memorandum of Understanding with key federal departments to ensure that there is a clear understanding of roles and responsibilities related to the impact assessment process. He noted that there was a new Minister of Environment and Climate Change, Jonathan Wilkinson, and that the Agency had already had an opportunity to brief him.

Updates on Recent Developments

With regard to updates on the Agency's work, the Ex-Officio member informed the Committee that the Agency hosted a strategic assessment workshop in November, involving external experts.

The Ex-Officio member also provided a debrief of the November meeting of the Indigenous Advisory Committee (IAC (Indigenous Advisory Committee)). The Indigenous Advisory Committee has identified three priority areas: Indigenous knowledge, Indigenous participation in impact assessment, and assessing the potential impacts on rights. IAC (Indigenous Advisory Committee) members were interested in aligning a one-day meeting in June to work with TAC (Technical Advisory Committee) on Indigenous knowledge and Western science. At its next meeting in January 29-30 2020, the IAC (Indigenous Advisory Committee) will have a working session on the Indigenous Knowledge Policy Framework and engagement plan.

The Ex-Officio member also informed the Committee members about the use of their inputs from the last meeting. Based on the Committee's comments on Assessing Social, Health and Economic Effects, the Agency is now focusing on principles rather than identifying specific methodologies. For specific methodologies, the guidance document will refer to the Tailored Impact Statement Guidelines. Reflecting the opinions of the majority of Committee members, the draft document has three separate sections for social, health and economic effects. It emphasizes health impacts rather than the broader concept of well-being.

Similarly, in response to the Committee's feedback, the Agency is making several changes to the Draft Regional Assessment Policy document. For example, the Agency is ensuring that the document provides a clear definition of regional assessment and describes the expected outcomes from a regional assessment. The document will also clarify when project assessment will be exempted on the basis of regional assessment as permitted by the legislation. Finally, the document will describe how regional assessment and impact assessment may inform each other at different stages.

With regard to the review of science in impact assessments by the Chief Science Advisor, the Ex-officio member told the Committee that the Office of the Chief Science Advisor had revised its framework based on Committee input and will pursue broad consultations on the framework in addition to targeted consultations. The revised framework clarifies the scope for considering Indigenous knowledge in the context of the review and clarifies that it will be assessing the federal review of proponent science, rather than proponent science itself. Professional judgement will be specifically identified as a consideration. The Review will consider federal scientific activity for assessments conducted by Review Panels. The Committee will have a chance to read the first draft of the Review.

President's Remarks

Later in the day, the President of the Agency met with the Committee. He noted the value of the Committee's work to the Agency and presented four top priorities for the committee's advice: (1) how can we use the new planning phase to focus assessments on what really matters; (2) ensuring meaningful public participation within the legislated timelines; (3) cumulative effects, strategic assessment and regional assessment; and (4) how to best consider science and Indigenous knowledge.

In response to a question, the President confirmed that the regional assessment, strategic assessment and cumulative effects assessment are powerful tools and the new Act has brought them to the forefront of impact assessment, that the Agency is now currently implementing a regional assessment in Newfoundland, and the Minister has received two more requests for regional assessments including for one in the Ring of Fire in northern Ontario.

He affirmed the Agency's commitment to flawless implementation of the process, using the best science and Indigenous knowledge, so that the Governor-in-Council could take informed decisions.

Agenda Item: Interim Guidance: Health, Social and Economic Effects Analysis under the *Impact Assessment Act*

An Agency official presented the approach being taken to develop the Interim Guidance. There had been a discussion at the last meeting as to whether there should be three separate guidance documents on the three topics (health, social, and economic) or whether they should be integrated into one. The version presented to the Committee included three separate sections prefixed by a general introduction.

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

- Are there gaps in the guidance that need to be addressed?
- Should the guidance be more prescriptive in terms of methods?
- Are expectations for the scope of analysis clear?

Committee members leading on the agenda item launched the discussion with a presentation which they had prepared. The presentation made the following points, representing the views of some Committee members:

- Health, social and economic effects are three critical and complex assessment realms with a checkered history in federal assessments. Combining the three into a short guidance document may not provide adequate clarity on expectations and good practice requirements.
- The guidance should provide direction about what one should do when valued components differ between parties, and how the valued components should be weighted. There should also be some clear direction about how to collect baseline data as well as data for determining trends. The context of cumulative effects is also critical to these three assessments.
- There is a greater need to distinguish in the document who is responsible for what and who is best situated to do certain aspects of the assessment. The guidance should consider meeting the needs of four groups of stakeholders. First, proponents do not want to take on quasi-governmental responsibilities or set unrealistic expectations. Second, consultants want clarity on what is expected. Third, agency staff require some kind of checklist to work off when overseeing this process. Finally, intervenors expect to see how these issues make a difference in decisions.

- The Committee noted that the document should provide more guidance on the level of acceptable impact. There is also a need for specifying the role of other federal departments in these assessments. If the current MOUs between the Agency and other federal departments do not specify the role, the Agency should consider including it.
- There should be information related to Joint Reviews with provinces, which are extensively involved in these types of assessments.
- It was suggested that positive effects need greater attention in the document. It was noted that positive effects are in public interest, but adverse effects never are. There should be consideration of enhancement of benefits, not just mitigation of adverse effects.
- The Committee pointed out the need for guidance on how and who should be developing thresholds of acceptable change and how to determine “resilience” to future change. There are some other areas that the document should consider expanding on, such as induced economic effects assessment, use of secondary data before planning for primary data collection.
- There are two ways to approach methods. The document could outline requirements at a principle level rather than prescribing methods for all situations. Prescribing methods could stifle innovation. Alternatively, methods could be specified, at least for some types of projects. Some stated that leaving it entirely open to proponents would not produce desirable results. The suggestion was to specify the methods at least at the level of the Tailored Impact Statement Guidelines and then indicate the exceptions when proponents could deviate from the guidelines. The prescriptive approach would probably be more relevant for economic effects assessment for which there are established methods.

Flexibility and innovation would be more relevant for health and social effects assessments.

- If the prescriptive approach is followed, the Committee suggested that the Agency should undertake initiatives to educate proponents and experts. In any event, expectations regarding methodology should be clearly outlined in the guidance documents in order to support proponents who start work before the Planning Phase. The Agency should also set the minimum threshold for participation by communities and Indigenous groups and the information required. Without sufficient guidance, proponents will have difficulty in meeting the requirements and completing the assessment within the Early Planning phase. Scoping is critical. The Tailored Impact Statement Guidelines should focus on what is important; it should not be a laundry list.
- There was also a suggestion to consider paths of inquiry as somewhat of an alternative to scoping. This method involves choosing areas of focus similar to scoping, but without making final decisions about what is relevant and what is not. This method can be a less contentious way of reaching agreement on areas of focus.
- It was observed that there is a general bias toward quantitative data which are more easily available. The balance needs to be shifted toward qualitative data for these assessments, particularly because communities value qualitative data. It was acknowledged that getting communities to participate in qualitative data gathering is a challenge for proponents. Funding to increase community capacity was acknowledged as being important to support effective participation by communities and Indigenous groups. The Agency noted that its Indigenous Capacity Funding program could help in this regard.

Engagement with communities on their key questions, concerns and aspirations should begin in the planning phase.

- The Interim guidance needs to further clarify how scoping should be done with Indigenous groups and communities to focus on what matters most. It should also provide some direction on the issue of the inclusion of other vulnerable social groupings, such as homeless people. Some part of the assessment could be delegated to a community (e.g., health).
- The Committee also discussed the importance of the role of regional assessments in supporting project-level assessments, and in identifying context specific 'pathways of effects.' Addressing potential effects as early as possible would improve effects analysis in the impact assessment phase.

Agenda item: Extent of Significance

An Agency official explained the legislative requirements for the consideration of the extent to which adverse effects in federal jurisdiction are significant under the *Impact Assessment Act*. The committee was asked the following questions:

- How should the extent of significance be characterized?
- What are the methodologies and criteria for assessing extent of significance for non-biophysical effects (social, economic, cultural, etc.)?
- What are the best methodologies for considering a range of effects?

A Committee member launched the discussion by summarizing the comments he had received from other members. On the question of characterization, it was stressed that the meaning of significance has to be understood in the context of impact assessment. Significance should be

viewed as a descriptor of an effect on valued components in the context of a proposed project, and to what extent the effects are significant and acceptable is eventually determined by society.

Committee members also noted the following:

- The extent of significance should be determined for both on positive and negative effects. It was also noted that what is positive for one community may be viewed differently by another community. Providing decision-makers information on all perspectives would be helpful
- The Committee observed that the extent of significance is important information for decision-makers. There are different ways of determining extent of significance, such as using a matrix or ratings/score cards such as High-Medium-Low or Red-Yellow-Green.
- The concept of “extent” is more useful than a “yes” or “no” and may lead to more meaningful conclusions. It was noted that thresholds for significance have often been arbitrarily set.
- Some members stated that proponents should make a determination of significance as the process could promote collaboration with communities, although there was some concern that conclusion on the extent of significance could be minimized. In considering significance, proponents should be encouraged to use qualitative as well as quantitative analysis. Others felt that proponents should gather and present the information but not make a determination on the extent of significance. They may propose to others (such as the Agency or a panel) how they believe significance should be determined, as may communities, environmental groups, Indigenous peoples and other stakeholders. Ultimately, in making its decision, the Government of Canada (via the Agency or a panel) is the determiner of significance.

- Decision-makers often have to consider contrasting perspectives. Presenting different perspectives and obtaining wider views on significance will increase the value of it. The role of the Agency should be to reduce chances for arbitrary decisions by analyzing effects.
- Aspirations and consultation rather than a fixed formula, should be considered in reconciling positive and negative effects. The criteria outlined in the existing Agency guidance (magnitude, duration, reversibility, etc.) may also guide this exercise. Finally, the net benefits should be determined based on the assessment of the project's contribution to sustainability.
- It was noted that societal values should be added to the criteria. Significance should be informed by what is acceptable to affected communities. This would allow for better consideration of the context in the determination of extent of significance. Furthermore, uncertainty was raised as another criteria to be considered. This would allow the quality of the information to be evaluated.
- On the question of criteria, the committee noted that, in general, criteria are subjective, but acknowledging it will helpfully reveal the sources of the subjectivity. The criteria used under previous guidance, such as magnitude, geographical extent, timing, frequency, duration and reversibility of effects, should be maintained. However, the document should also provide guidance on dealing with uncertainty so that decision-makers would not have to rely on judgement for assessing information. Additionally, context should be a measurable criterion, rather than an overarching consideration.
- The guidance needs to be clear how it would be used: Will it be used only for effects on areas of federal responsibility or for all effects, or will it be used only for the assessment of projects that go through the regular process or also for projects on federal lands or outside

Canada? How will the guidance support regional and strategic assessments? The approach to the development of the guidance would depend on the answers to these questions.

- A further discussion by the Committee on suitable criteria for health, social and economic effects was desired, perhaps in collaboration with the Indigenous Advisory Committee.

Day 2 – December 4, 2019

Agenda item: The Agency's Priorities and the Committee's Forward Agenda

Research

There was a discussion of the various mechanisms and resources available to the Committee to advance its work. A working group could be established to consider these mechanisms in the light of Committee priorities. Members will send their ideas to the Co-chairs for any short research projects that could be undertaken in the coming year.

The Agency informed the Committee of the Agency's collaboration with the Canadian Institutes for Health Research, which will host a Best Brains Exchange workshop on mental health and impact assessment. Members were welcomed to attend.

Future items for discussion

The Ex-officio member noted that up to now, the Agenda of the Committee was largely driven by Agency and expressed appreciation for all of the feedback that had been provided on policy and guidance to date. The Committee was encouraged to identify and set priorities.

For the next meeting in Vancouver in March 2020, the Committee discussed the following proposals:

- Inviting a representative from the BC government to talk about aspects of the new impact assessment process of BC, specifically Indigenous-led impact assessment;
- A potential field trip and a presentation on the margins of the meeting;
- Discussion topics could include:
 - Regional assessment and strategic assessment
 - Monitoring compliance and enforcement
 - Significance
 - Tailoring and scoping

At the request of the Committee, the TAC (Technical Advisory Committee) Secretariat will explore organizing a joint meeting between the Technical Advisory Committee and the Indigenous Advisory Committee.

Finally, a Co-chair presented the summary of members' comments on the Agency's draft Federal Lands guidance. A number of questions were raised by members:

- How does the section on significance relate to sustainability?
- How does it support Cabinet decisions?
- How does the guidance support the Government's climate change agenda?

Members also made the following comments:

- The examples provided in the document are useful; there are opportunities to include others;
- The document should explain the difference between a physical activity and work;
- Relationships with other processes need to be clarified.

Technical Advisory Committee on Science and Knowledge

Secretariat Action Items

- Organize a joint meeting with the Indigenous Advisory Committee.
- Provide a revised version of the Social, Health and Economic Guidance for further feedback by the Committee before publishing.

Attendees

Co-Chairs

Kevin Hanna

Darcy Pickard

Committee members

Alistair MacDonald

Bill Ross

Colin Webster

Gillian Donald

Glennis Lewis

Helga Shield

Hugo Mailhot Couture

Marie Lagimodiere (by phone)

Mark Shrimpton

Meinhard Doelle

Michel Bérubé

Impact Assessment Agency of Canada

David McGovern

Brent Parker

Miriam Padolsky

Jennifer Saxe

Robyn Whittaker

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