

Regional Assessment of Offshore Wind Development in Newfoundland and Labrador:

The Committee's Draft Framework for The Indigenous Participation Plan

Date: July 24, 2023

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1. Introduction

On March 23, 2023, the federal Minister of Environment and Climate Change released the [final Agreement and Terms of Reference](#) (“the Agreement”) and appointed an independent [Committee](#) to conduct the Regional Assessment of Offshore Wind Development in Newfoundland and Labrador (“the RA”). This RA will be conducted over an 18-month period with a final report submitted to the Ministers in September 2024, as defined in the Agreement.

The Committee has prepared this Indigenous Participation Plan to outline meaningful opportunities for Indigenous groups to engage in the conduct of the RA. The Committee will further collaborate with Indigenous peoples on the development and implementation of the Indigenous Participation Plan. Once completed, the Indigenous Participation Plan will be posted to the Canadian Impact Assessment Registry (“the [Registry](#)”) and updated as needed, with advice from Indigenous groups and the Indigenous Knowledge Advisory Group, to ensure that Indigenous groups are aware of planned approaches and upcoming activities.

1.1. Regional Assessment Goal

The goal of the RA is to provide information, knowledge and analysis regarding future offshore wind development activities in the Study Area (Figure 1) and their potential effects, in order to inform and improve future planning, licencing and impact assessment processes for these activities in a way that helps protect the environment, health, social and economic conditions while also creating opportunities for sustainable economic development.

1.2. Regional Assessment Objectives

The objectives of the RA are to facilitate the above goal by:

a) Providing information, knowledge and analysis related to environmental, health, social and economic conditions and the potential effects (including cumulative effects) of offshore wind development activities in the Study Area, with consideration of Indigenous knowledge, Community knowledge and scientific information throughout.

- b) Providing an understanding of the regional context that can be used in considering and evaluating the potential effects (including cumulative effects) of future offshore wind development activities to inform future planning and licencing processes and impact assessments.
- c) Identifying and recommending mitigation and follow-up measures and other approaches for addressing potential positive and adverse effects (both project specific and cumulative) as part of future decision-making for offshore wind development activities.
- d) Describing how the findings or recommendations of the RA could be used to inform future planning and licencing processes for these activities in a manner that fosters sustainability and enhances the effectiveness and efficiency of their impact assessments.

The RA will focus on future offshore wind development activities in the Study Area (Figure 1), and the potential effects of these activities. In doing so, it will also consider the relationship of, and potential interactions between, the effects of future offshore wind development activities and those of other existing and future physical activities, including the potential for resulting cumulative effects.

It will also consider the environmental, health, social and economic components and systems that may be affected by future offshore wind development activities within the Study Area, but which extend beyond its boundaries, including the likely geographic extent of potential effects resulting from these activities.

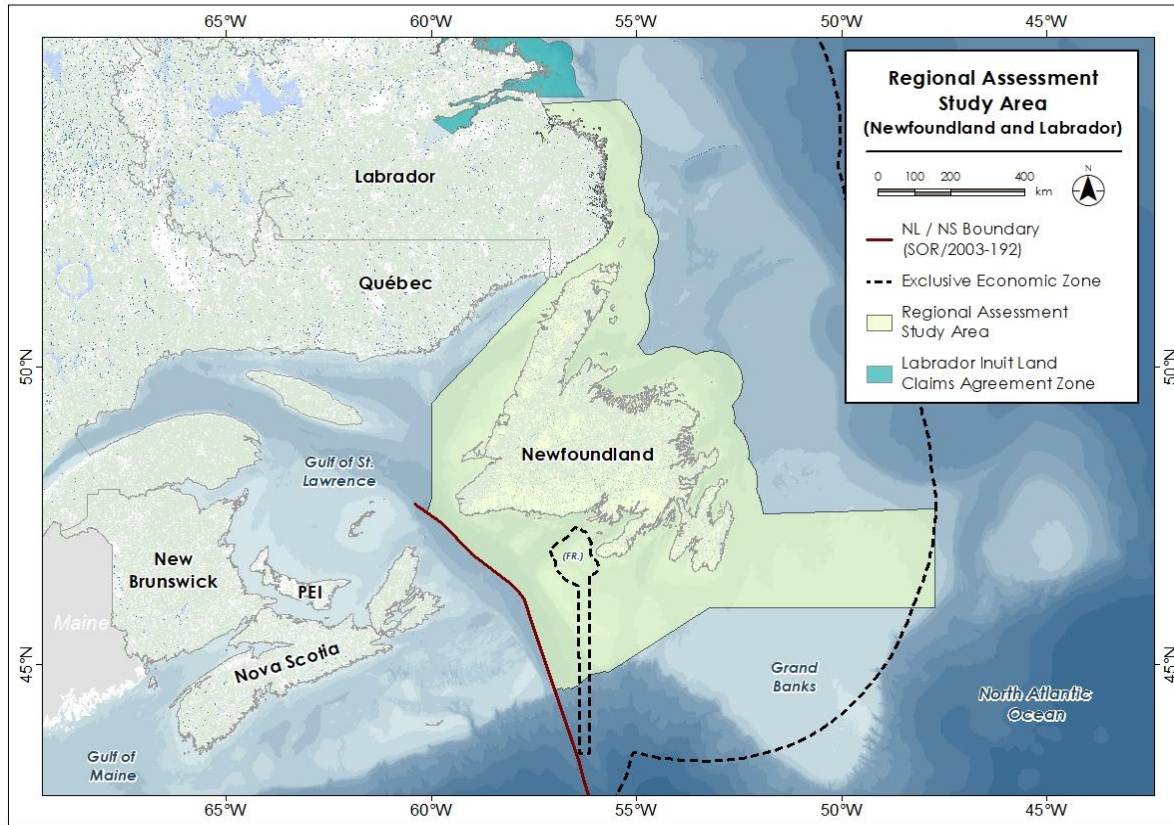


Figure 1: Regional Assessment Study Area (Newfoundland and Labrador)

1.3. Engagement prior to Committee appointment

The Impact Assessment Agency of Canada (the Agency) conducted Indigenous engagement activities prior to the appointment of the Committee. Feedback received during this engagement was used to inform the Agreement.

The following outlines comments received by the Agency from Indigenous groups pertaining to the Agreement:

- Open and transparent communication throughout the process;
- Earlier opportunities for involvement in the process;
- Consideration of Indigenous knowledge, in accordance with the [OCAP®](#) principles (ownership, control, access, possession) and with existing Indigenous knowledge inclusion protocols;

- Respect for the original formats and processes of the knowledge of the Nations, communities and sub-groups represented (songs, storytelling, etc.);
- Respect for the unique nature of each community and adjustment of the process based on preferences where possible;
- Ensure the inclusion of diverse perspectives (women, seniors, minority groups, intergenerational, etc.) throughout the process;
- Knowledge of the timelines in advance and sufficient time allotted to schedule meetings, prepare, review documents and provide input (process predictability);
- Availability of funding to support participation throughout the process; and
- Respect and integration of the [United Nations Declaration on the Rights of Indigenous Peoples](#).

2. Regional Assessment Conduct

The activities that will take place during the conduct of the RA will be led by the Committee, with support from their secretariat. The Committee may also request advice and guidance from the Agency's Indigenous Relations Sector to support the Committee's ongoing efforts in conducting the RA in an inclusive and collaborative way with Indigenous groups.

It is important to note that while the conduct of the RA may involve collecting information on Indigenous rights, the RA process is not an Aboriginal or Treaty rights-determining process.

2.1. Committee Mandate

The RA will be conducted in accordance with the Impact Assessment Act (IAA) and the Agreement. The roles and responsibilities of the Committee are detailed in the Agreement. During the conduct of the RA, the Committee will conduct engagement activities with Indigenous groups, as well as with the public and stakeholder groups.

The Committee is mandated to receive information from Indigenous peoples on the nature and scope of any Aboriginal or Treaty rights protected by section 35 of the Constitution Act, 1982 in the Study Area, as well as information on potential adverse impacts that future offshore wind development activities in the Study Area may (individually or cumulatively) have on these rights. Information provided to the Committee as part of this process may also inform Crown efforts to develop and implement

meaningful consultation processes with Indigenous peoples in future project-specific impact assessments and other regulatory and decision-making processes. The Committee will consider any information received regarding Aboriginal or Treaty rights and will consider that information in its analysis and the development of its recommendations.

In conducting its work, the Committee will recognize that, for the purposes of the RA, Indigenous knowledge is an important component of understanding existing conditions, potential effects (both positive and adverse, including cumulative effects), mitigation measures and other measures for addressing them, and that the RA can provide a means of gathering and presenting Indigenous knowledge, Community knowledge, and scientific information to inform future impact assessments. The Committee will submit a report to the Minister after the RA has been completed indicating how the Committee has taken into account and used the Indigenous knowledge provided with respect to the assessment.

The Committee is not mandated or empowered by the Agreement to make any determination as to the existence or validity of Aboriginal or Treaty rights, the probability of adverse impacts upon any such rights, or whether any duty to consult has arisen and been discharged in any particular context.

2.2. Committee Activities

Throughout the conduct of the RA the Committee will:

- Ensure that Indigenous peoples are provided with opportunities to participate meaningfully in the Regional Assessment
- Engage with Indigenous peoples and organizations that have information, knowledge or interests relevant to the RA. This will include any person or group with information and interests related to the RA and who wishes to participate in it.
- Develop and implement an Indigenous Participation Plan, with the advice of the Indigenous Knowledge Advisory Group and Indigenous peoples. This plan will be posted to the Registry once completed and updated regularly by the Committee, with advice from the Indigenous Knowledge Advisory Group, to ensure that participants are aware of planned participation approaches and upcoming activities.

2.2.1. Indigenous Knowledge Advisory Group

The Committee will establish the Indigenous Knowledge Advisory Group with a view to ensuring it is inclusive and diverse in its membership. Interested Indigenous persons may come forward at any time during the RA to express their interest in participating in this and the Scientific Information and Community Knowledge and Fisheries and Other Ocean uses advisory groups. In addition to the three advisory groups listed, the Committee may choose to establish additional advisory groups as it deems necessary, and to combine or integrate the activities of two or more advisory groups, as applicable. Indigenous groups may also recommend representatives to participate in any advisory group on their behalf.

Advisory groups will aid in identifying, accessing, analyzing and using information and knowledge that is relevant to the RA, as well as in identifying and evaluating information and knowledge gaps and recommending approaches to address any knowledge gaps. The advisory groups will identify, provide and support the consideration and use of Indigenous knowledge, Community knowledge, and scientific information in the conduct of the RA, as appropriate.

The Committee will seek knowledge and perspectives from Indigenous peoples on matters relevant to the conduct of the RA, including through the Indigenous Knowledge Advisory Group. This will include seeking Indigenous knowledge and perspectives on some or all of the topics listed below during the conduct of the RA, in accordance with established Indigenous protocols and procedures as applicable. This advisory group will also provide information, knowledge and perspectives on Indigenous peoples and their communities, activities and other interests, including Aboriginal or Treaty rights protected by section 35 of the Constitution Act, 1982. This advisory group will also advise the Committee on approaches for the collection, sharing and consideration of such knowledge and its incorporation into the RA. The advisory group will provide information and advice to the Committee on the topics outlined below, as required and requested:

- a. Environmental, health, social and economic conditions;
- b. Information and knowledge gaps, and potential opportunities to address these during or following the completion of the Regional Assessment;
- c. Future offshore wind development activities in the Study Area, including their:
 - i. Need and purpose;
 - ii. Physical activities associated with their construction, including expansion, operation, decommissioning and abandonment;
 - iii. Key locations of interest for future offshore wind development activities in the Study Area (to help focus the Committee's work on areas which are most likely to see future development interest, based on technical and economic factors);

- iv. Regulatory requirements;
 - v. Potential positive and adverse effects, including cumulative effects and associated sustainability considerations;
 - vi. Mitigation, and other approaches for avoiding or reducing potential adverse effects and creating and maximizing potential positive effects; and
 - vii. Follow-up requirements.
- d. Other topics relevant to the RA, as requested by the Committee.

2.3. Activities

This section outlines the proposed approaches for participation identified to date. Table 1 outlines these proposed activities for participation in the RA process. The Agency identified these activities by considering comments and views gathered prior to Committee's appointment from Indigenous groups, which are available on the Registry. In addition to the activities for participation identified in Table 1, the Committee will work with Indigenous groups to support and tailor Indigenous involvement as needed. Depending on the preferences of Indigenous groups, the activities listed may take place either in person or virtually.

Table 1

Proposed activities for Indigenous groups during the conduct of the Regional Assessment of Offshore Wind Development in Newfoundland and Labrador

Step	Activities	Considerations
<p>Establishment of an Indigenous Knowledge Advisory Group</p>	<p>An Indigenous Knowledge Advisory Group, composed of representatives recommended by Indigenous groups, will be established early in the conduct of the RA. Its role will be to provide information and advice, as required, upon request of the Committee.</p>	<ul style="list-style-type: none"> Establishment of the Indigenous Knowledge Advisory Group is described in the Agreement. On February 28, 2023, Indigenous groups were invited to identify potential members to serve on the Indigenous Knowledge Advisory Group. Committee engages with Indigenous groups to invite input on the scope of issues as well as information and Indigenous knowledge to inform the RA. <ul style="list-style-type: none"> The Indigenous groups, in collaboration with the Committee, establish roles and details of how the Indigenous Knowledge Advisory Group will operate.
<p>Indigenous Participation Plan (IPP)</p>	<p>Committee shares draft IPP with Indigenous groups for input, recommendations and amendment.</p>	<ul style="list-style-type: none"> Committee to develop and implement an IPP in collaboration with Indigenous groups and with advice from the Indigenous Knowledge Advisory Group The IPP will be posted to the Registry and updated regularly by the Committee, with advice from Indigenous groups and from the Indigenous Knowledge Advisory Group, to ensure that participants are aware of planned participation approaches and upcoming activities.

<p>Public, Fisheries and Stakeholder Participation Plan</p>	<p>Committee shares Public, Fisheries and Stakeholder Participation Plan for review by and input from Indigenous groups.</p>	<ul style="list-style-type: none"> • Committee to develop and implement a Public, Fisheries and Stakeholder Participation Plan, with advice from the advisory groups. • The Public, Fisheries and Stakeholder Participation Plan will be posted to the Registry and updated regularly by the Committee, with advice from the advisory groups, to ensure that participants are aware of planned participation approaches and upcoming activities.
<p>Initial engagement and information sessions</p>	<p>Face-to-face engagement, where possible, and introductory sessions throughout Atlantic region.</p>	<ul style="list-style-type: none"> • Offer Indigenous communities and organizations to meet and introduce in person or virtually with Committee. • Offer information sessions with the Committee and participants.
<p>Establishment and work of Scientific Information and Community Knowledge and Fisheries and Other Ocean Users advisory groups</p>	<p>Advisory groups will be established to provide information and advice on topics related to the RA upon request of the Committee.</p> <p>These advisory groups will be composed of representatives from government departments and agencies, Indigenous groups, industry, academia, and the public.</p>	<ul style="list-style-type: none"> • Establishment of these advisory groups is described in the Agreement. • A list of the various advisory groups and their members will be shared by the Committee with Indigenous groups.
<p>Participation throughout the process</p>	<p>General participation to the conduct of the RA.</p>	<ul style="list-style-type: none"> • Several opportunities for participation in the RA will be available to Indigenous groups and Indigenous peoples. Participation in one advisory group will not limit the participation of an Indigenous group or member in other advisory groups or engagement opportunities.

Engagement on the RA reports

Meetings between Indigenous groups and the Committee to discuss findings and preliminary recommendations.

The Committee will release the draft RA Reports for comment.

- Engagement with Indigenous groups will take place through various participation activities and advisory groups, including during the public review period.
 - A public review period on the draft report.
 - Coordination and logistics to be considered in the conduct of the RA (timelines).
 - Engagement in Newfoundland and Labrador, Nova Scotia, New Brunswick, Quebec and Prince Edward Island.
 - On completion of the RA, the Committee provides their Report to Ministers.
 - The Minister advises the public of the availability of the final RA Report.
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2.3.1. Group specific participation notes

In this section, the Committee would like to highlight each Indigenous group's requested methods for participation, special areas of concern, etc.

2.4. Information and Analysis

In conducting the Regional Assessment, the Committee, along with the assistance of the Indigenous Knowledge Advisory Group will identify and consider the effects, both positive and adverse, that offshore wind development activities in the Study Area may have on any Indigenous peoples, and any impact that they may have on the rights of the Indigenous peoples recognized and affirmed by section 35 of the Constitution Act, 1982. The Committee will also take into account any scientific information, Indigenous knowledge — including the knowledge of Indigenous women — and Community knowledge provided with respect to the RA, as per the requirements of subsection 97(2) of the IAA.

2.5. Report and Records

The Committee will describe the conduct and document the results of the RA in its Report as outlined in the Agreement. Additionally, the Committee will include a summary of its Report in plain language available in English and French, and in Mi'kmaw, Innu-aimun and Inuktitut if requested by one or more participating Indigenous groups.

The Committee will include a description of the Indigenous participation activities undertaken by the Committee during the conduct of the RA, including a summary of any comments received and of where and how these were considered in the RA. An overview of how the Committee took into account and used any Indigenous knowledge and Community knowledge provided during the RA. In doing so, the Committee must obtain consent to disclose any confidential Indigenous knowledge provided as per section 119 of the IAA unless otherwise required by law.

2.6. Participant Funding

In July 2022, participant funding was provided by the Agency to interested Indigenous groups to support Indigenous participation in the planning phase of the RA. The Agency posted a second contribution funding offer in December 2022 to support Indigenous

participation in the conduct of the RA. This will include participation in meetings and on advisory groups, review of materials, and review and comment on the draft Committee's Report.

2.7. Engagement Objectives

The Committee has identified the following early objectives:

- Establish an open and constructive dialogue with Indigenous groups interested in participating in the RA;
- Encourage Indigenous groups to actively participate in the RA;
- Work with Indigenous groups to determine opportunities for participation and collaboration on the RA;
- Develop an IPP in cooperation with participating Indigenous groups and peoples that reflects their interests and a collaborative framework for their participation.

3. Indigenous Groups

The Agency initiated discussions with Indigenous groups during the 2022 planning phase of both the RA of Offshore Wind Development in NL and the RA of Offshore Wind Development in Nova Scotia (lists provided below¹). In total, there were 55 Indigenous groups who were engaged and offered participant funding.

Indigenous communities engaged in the Regional Assessment of Offshore Wind Development in Newfoundland and Labrador and the Regional Assessment of Offshore Wind Development in Nova Scotia:

Newfoundland and Labrador

- Nunatsiavut Government
- Innu Nation representing Sheshatshui Innu First Nation and Mushuau Innu First Nation
- NunatuKavut Community Council
- Qalipu First Nation

¹ These lists identify the Indigenous groups and organizations that have expressed an interest in the Regional Assessment to date.

- Miawpukek First Nation

Ten Mi'kmaq First Nation communities in **Nova Scotia** represented by Kwilmu'kw Mawklusuaqn Negotiation Office (KMKNO):

- Acadia First Nation
- Annapolis Valley First Nation
- Bear River First Nation
- Eskasoni First Nation
- Glooscap First Nation
- Paqtnkek Mi'kmaw Nation
- Pictou Landing First Nation
- Potlotek First Nation
- Waycobah First Nation
- Wagmatcook First Nation

Three Mi'kmaq First Nation communities in **Nova Scotia** not represented by KMKNO:

- Membertou First Nation
- Millbrook First Nation
- Sipekne'katik First Nation

Two Mi'kmaq First Nation communities in **Prince Edward Island**, represented by L'nuey:

- Abegweit First Nation
- Lennox Island First Nation

Eight Mi'gmaq First Nation communities in **New Brunswick** represented by Mi'gmawe'l Tplu'taqnn Inc. (MTI):

- Fort Folly First Nation
- Eel Ground First Nation
- Pabineau First Nation
- Esgenoôpetitj First Nation
- Buctouche First Nation
- Indian Island First Nation
- Eel River Bar First Nation
- Metepenagiag Mi'kmaq Nation

One Mi'gmaq First Nation community in **New Brunswick** not represented by MTI:

- Elsipogtog First Nation

Six Wolastoqey First Nation communities in **New Brunswick** represented by Wolastoqey Nation in New Brunswick (WNNB):

- Kingsclear First Nation
- Madawaska Maliseet First Nation
- Oromocto First Nation
- Saint Mary's First Nation
- Tobique First Nation
- Woodstock First Nation

Three Mi'gmaq First Nation communities in **Quebec** represented by Mi'gmawei Mawiomi Secretariat (MMS):

- La Nation Micmac de Gespeg
- Listuguj Mi'gmaq Government
- Micmacs of Gesgapegiag

Seven Innu communities in **Quebec**

- Conseil des Innus d'Unamen Shipu
- Conseil des Innu de Ekuanitshit
- Conseil des Innus de Pakua Shipu
- Conseil des Innus de Pessamit
- Conseil de la Première Nation des Innus Essipit
- Innu Takuaihan Uashat mak Mani-Utenam
- Première Nation des Innus de Nutashkuan

Indigenous organizations engaged in the Regional Assessment of Offshore Wind Development in Newfoundland and Labrador and the Regional Assessment of Offshore Wind Development in Nova Scotia:

Newfoundland and Labrador:

- Agence Mamu Innu Kaikusseht (AMIK)
- Atlantic Policy Congress of First Nations Chiefs Secretariat
- Newfoundland Aboriginal Women's Network (NAWN)
- Keepers of the Circle

Nova Scotia:

- Atlantic Policy Congress of First Nations Chiefs Secretariat
- Confederacy of Mainland Mi'kmaq
- Mi'kmaq Conservation Group
- Native Council of Nova Scotia / Maritime Aboriginal Peoples Council
- Nova Scotia Native Women's Association
- Union of Nova Scotia Mi'kmaq
- Unama'ki Institute of Natural Resources
- Wskijnu'k Mtmo'taquow Agency Ltd

4. Confidentiality

Comments and other documents received by the Committee throughout the RA process will be posted on the Registry, except for the ones deemed to be confidential or subject to non-disclosure.

If a participant does not wish for submissions or comments to be published on the Registry, the Committee should be contacted before comments or documents are submitted. Furthermore, any Indigenous knowledge that is provided in confidence is considered confidential and will not knowingly be, or be permitted to be, disclosed without written consent in accordance with section 119 of the IAA.

Appendix A

The Committee will complete its work in a phased manner and will, following the public review of drafts as referenced in Section A1.6 of the Agreement, submit the various components of its Report to the Ministers as follows:

Report Component	Overview	Relevant Components (From Sections A2.3 and A2.4 from the Agreement)	Submission to Ministers
1	Information and analysis to inform future planning and licencing for offshore wind in the Study Area	Section A 2.3 Objective A, items a) to d) Objective B, item a) Objective D, item a) Section A 2.4 Items a) to e)	12 months from Committee appointment *
2	Identification of, and recommendations on, mitigation, and other approaches to address potential effects, and monitoring and follow-up requirements, to inform future impact assessments for offshore wind in the Study Area	Section A 2.3 Objective C, items a) to b) Objective D, items a) to b) Section A 2.4 Items d) to e)	18 months from Committee appointment *

* As noted above, the Committee may choose to present information in an electronic format, such as through a GIS. While this information is part of Component 1 (and any such GIS is therefore to be submitted with 12 months), it is recognized that the system may continue to be refined during the remainder of the Regional Assessment process, and that an updated version may be included in the Committee's final deliverable (at 18 months). The Committee was appointed on March 23, 2023.