

**Draft Agreement to Conduct a Regional Assessment of Offshore Oil
and Gas Exploratory Drilling East of Newfoundland and Labrador**

Between

**Her Majesty the Queen in Right of Canada as represented by the
federal Minister of the Environment and
the federal Minister of Natural Resources**

and

**Her Majesty the Queen in Right of the province of Newfoundland
and Labrador, as represented by the provincial Minister of
Natural Resources and the provincial Minister responsible for
Intergovernmental Affairs and Indigenous Affairs**

PREAMBLE

WHEREAS the federal Minister of the Environment has statutory responsibilities pursuant to the *Canadian Environmental Assessment Act, 2012*;

WHEREAS the federal Minister of Natural Resources and the provincial Minister of Natural Resources have statutory responsibilities pursuant to the *Canada–Newfoundland and Labrador Atlantic Accord Implementation Act*, and the *Canada-Newfoundland and Labrador Atlantic Accord Implementation Newfoundland and Labrador Act (Accord Acts)*;

WHEREAS the Canada-Newfoundland and Labrador Offshore Petroleum Board is established by the Accord Acts and their respective regulations, including in relation to health, safety and environmental matters respecting petroleum-related work or activities which may include the exploration, development, production, and transportation of petroleum in the Canada-Newfoundland and Labrador Offshore Area;

WHEREAS the federal Minister of Environment may establish a Committee to conduct a study of the effects of existing or future physical activities carried out in a region that is within the exclusive economic zone of Canada or the continental shelf of Canada;

WHEREAS the area where the study would be conducted is the site of current and proposed multiple oil and gas exploration and production activities;

WHEREAS the Government of Newfoundland and Labrador recently announced plans to encourage the drilling of up to 100 new exploratory wells by the year 2030;

WHEREAS the Governments of Canada and Newfoundland and Labrador are interested in improving the efficiency of the environmental assessment process as it applies to oil and gas exploration drilling while at the same time ensuring the highest standards of environmental protection continue to be applied and maintained.

THEREFORE, the Minister of the Environment, the federal Minister of Natural Resources, the provincial Minister of Natural Resources and the provincial Minister responsible for Intergovernmental Affairs and Indigenous Affairs together hereby establish a Committee to conduct a Regional Study, to be referred to hereafter as a Regional Assessment in accordance with the provisions of this Agreement and the Terms of Reference, attached as Appendices A and B to this Agreement.

Definitions

For the purpose of this Agreement and of the Appendices attached to it,

“Agency” means the Canadian Environmental Assessment Agency established by the *Canadian Environmental Assessment Act* and continued under the *Canadian Environmental Assessment Act, 2012*.

“CEAA 2012” means the *Canadian Environmental Assessment Act, 2012*.

“C-NLOPB” means the Canada-Newfoundland and Labrador Offshore Petroleum Board.

“Designated project” has the same meaning as in CEAA 2012.

“Federal authority” has the same meaning as in CEAA 2012.

“Committee” means the Committee established to conduct the Regional Assessment.

“Ministers” means, collectively, the federal Minister of Environment, the federal Minister of Natural Resources, the provincial Minister of Natural Resources for Newfoundland and Labrador and the provincial Minister responsible for Intergovernmental Affairs and Indigenous Affairs.

“Mitigation measures” means measures to eliminate, reduce, control or offset the adverse effects of a project or designated project, and include restitution for any damage caused by those effects through replacement, restoration, compensation or any other means.

“Offshore area” has the same meaning as in the Accord Acts.

“Regional Assessment” means a Regional Study pursuant to CEAA 2012 and is a study or assessment of the effects of existing or future physical activities carried out in a region.

“Report” means the report produced by the Committee pursuant to section 75 of CEAA 2012.

1. Interpretation

- 1.1.** For greater certainty, the provisions of this agreement shall not be interpreted as providing a basis for any claim by or on behalf of Canada or Newfoundland and Labrador in respect of any interest in or legislative jurisdiction over any offshore area or any living or non-living resources of any offshore area.
- 1.2.** Should CEAA 2012 be repealed and replaced by new legislation, this agreement remains valid with any necessary modifications.

2. Establishment of the Committee

- 2.1.** A process is hereby established to create a Committee, pursuant to CEAA 2012.
- 2.2.** The Committee will be a joint committee between the Governments of Canada and Newfoundland and Labrador.

3. Constitution of the Committee

- 3.1.** The Committee will consist of five members. There will be two co-chairs appointed by the federal Minister of Environment. One of the co-chairs will be jointly recommended by the federal Minister of Natural Resources and the provincial Ministers for Newfoundland and Labrador. The remaining three members will be appointed by the federal Minister of Environment in consultation with the other Ministers.
- 3.2.** The Committee will have all the powers and obligations set out under section 77 of CEAA 2012.
- 3.3.** The Committee members will have knowledge or experience relevant to the Regional Assessment.

4. Conduct of the Regional Assessment

Task Team

- 4.1.** The Task Team will be the joint responsibility of the Ministers and will be co-chaired by the Agency and the C-NLOPB.
- 4.2.** The Agency, the C-NLOPB, Natural Resources Canada and the Newfoundland and Labrador Department of Natural Resources will make available technical staff to be part of the Task Team as appropriate.
- 4.3.** The Task Team will report to the Agency and the C-NLOPB until the Committee is established. Once the Committee is established, the Task Team will then report to the Committee instead of the Agency and C-NLOPB. The Task Team will be structured so as to allow the Committee to conduct its review in an efficient and cost-effective manner.
- 4.4.** The Task Team will prepare the Regional Assessment design, including objectives, work plan, process steps, knowledge and information requirements, resource needs and measures for public and Indigenous engagement, consistent with the Factors to be considered in the Regional Assessment, outlined in Appendix C.

- 4.5. The Task Team will assemble the existing information and knowledge relating to offshore exploratory drilling, including the existing environmental conditions in the Regional Assessment Area (proposed in Appendix D), the project works and activities associated with exploratory drilling, the environmental effects of such works and activities, the mitigation measures applied to those effects and monitoring and follow-up requirements and any other existing information to address the Factors to be considered in the Regional Assessment (Appendix C).
- 4.6. Existing information and knowledge includes, but is not limited to, any Strategic Environmental Assessments conducted or ongoing by the C-NLOPB, past or ongoing environmental assessments under CEAA 2012, the former CEAA and/or the Accord Act, information held by government, industry, academia, Indigenous groups or the public.
- 4.7. The Task Team will also be responsible for administrative, technical, and procedural support to the Committee and/or the Agency and the C-NLOPB as well as duties related to public and Indigenous information and engagement sessions.
- 4.8. The Task Team will undertake its work in accordance with the budget established.

Technical Advisory Group

- 4.9. The Task Team will establish the Technical Advisory Group and seek its input on the existing information and knowledge related to offshore exploration drilling.
- 4.10. A Technical Advisory Group will support the Task Team and the Committee, once established, to gather relevant data and information, conduct technical analysis, and provide expertise in relation to the Regional Assessment.
- 4.11. The Technical Advisory Group will carry out its duties in a manner that discharges the requirements set out in the Terms of Reference attached as Appendix B to this Agreement and that were approved by the Ministers.
- 4.12. The Technical Advisory Group members may be from within or outside of government and are to have knowledge or experience relevant to the Regional Assessment.
- 4.13. The Technical Advisory Group members may change, as appropriate, in relation to the work or expertise required during the course of the Regional Assessment.

Committee

- 4.14. The Committee will conduct a Regional Assessment of the effects of existing and anticipated exploratory drilling in the eastern Newfoundland and Labrador offshore, generally outlined in Appendices A and B.
- 4.15. The Committee will document the results of the Regional Assessment in a Report. The content of which is described in article 5.4 of this Agreement.
- 4.16. The Committee will conduct the Regional Assessment in a manner that discharges the requirements set out in CEAA 2012 and satisfies the requirements set out in the Factors to be

considered in the Regional Assessment and Terms of Reference attached as Appendices B and C to this Agreement.

- 4.17.** The Committee will engage with Indigenous groups and any others that have knowledge relevant to the Regional Assessment or whose interests and uses may be affected by exploratory drilling.
- 4.18.** The Committee will provide opportunity for the public to participate in the Regional Assessment. This will include at a minimum, open houses in the province of Newfoundland and Labrador to discuss Regional Assessment requirements, and a public comment period on the draft Report.
- 4.19.** The Committee will be responsible for planning its work in accordance with the following phases
- Engagement
 - Consulting on information gathered by the Task Team
 - Conducting public and Indigenous engagement sessions
 - Analysis
 - Identifying and addressing knowledge gaps and, as appropriate, making recommendations to address gaps
 - Report writing, including describing how the results of the Regional Assessment could be used to guide and inform future environmental assessment and regulatory decisions related to proposed offshore exploration drilling in the region. Consultation on the draft Report and finalization in consideration of any comments received and submission of the Final Report to the Ministers.
- 4.20.** The Committee may request clarification of its Terms of Reference or the Factors to be considered in the Regional Assessment by sending a letter signed by the co-chairpersons to the federal Minister of Environment, setting out the request. Upon receiving such a request, the federal Minister of Environment, in collaboration with the federal Minister of Natural Resources and the provincial Ministers, will provide the Committee such clarification in a timely manner.
- 4.21.** The Committee may seek an amendment to its Terms of Reference or the Factors to be considered in the Regional Assessment by sending a letter signed by the co-chairpersons to the federal Minister of Environment setting out the request. As appropriate, the federal Minister of Environment, in collaboration with the federal Minister of Natural Resources and the provincial Ministers, will respond in writing to any request to amend the Terms of Reference in a timely manner.
- 4.22.** Subject to articles 4.20 and 4.21 above, the Committee will continue with the Regional Assessment to the extent possible while waiting for a response in order to adhere to the timelines of this agreement and its Terms of Reference.

5. Record of Process and Report

- 5.1.** A public registry will be maintained by the Task Team during the course of the Regional Assessment in a manner that provides for convenient public access.
- 5.2.** The public registry will be hosted on the Agency's Internet Site.
- 5.3.** The public registry will include information used to develop the Regional Assessment, including submissions or reports as well as comments received by the Task Team or the Committee from the public or Indigenous groups during the Regional Assessment. It will also include information produced by the Task Team or Committee.
- 5.4.** The Report will contain information as outlined in the Factors to be considered in the Regional Assessment (Appendix C) and in the Terms of Reference (Appendix A).
- 5.5.** The Report will take into account and reflect the views of all Committee members.
- 5.6.** After the Report is submitted, the information used during the Regional Assessment would remain publicly available on the Agency's Internet site.
- 5.7.** The Committee will submit its Report to the Ministers no later than Fall, 2019.
- 5.8.** Upon receiving the Report, the federal Minister of Environment will make the Report available to the public and will advise the public that the Report is available.
- 5.9.** Recognizing the value of a digital, spatially-based system to house and make best use of the information generated during the Regional Assessment, the Committee will also provide its advice on the feasibility of and how best to develop and structure such a system.
- 5.10.** The Committee will report to the Ministers within four months of being established concerning the efficacy of developing such a system.

6. Other Government Departments and Agencies

- 6.1.** The Task Team or the Committee may request federal authorities and provincial authorities having specialized information or knowledge with respect to the Regional Assessment to make that information or knowledge available to the Task team or the Committee in an acceptable manner and within a specified period.
- 6.2.** Nothing in this Agreement will restrict the participation by way of submission to the Task Team or the Committee by other federal or provincial government departments or agencies.

7. Costs

- 7.1.** The Agency, the C-NLOPB, and Natural Resources Canada will develop and agree upon a budget estimate of expenses.
- 7.2.** The costs of the Regional Assessment will be apportioned between the Agency, the C-NLOPB, and Natural Resources Canada and reflected in a separate cost-sharing agreement between the Parties.
- 7.3.** Costs incurred by the C-NLOPB may be recovered from industry.

7.4. The Committee will undertake its work in accordance with the budget established. The Committee may request a change to the budget by way of a written request to the Agency, the C-NLOPB, and Natural Resources Canada.

8. Amending the Agreement

8.1. The terms and provisions of the Agreement may be amended by written memorandum executed by the Ministers. The Agreement may be terminated at any time by an exchange of letters signed by the Ministers.

9. Signatures

WHEREAS the Ministers hereto have put their signatures

Appendix A

Terms of Reference – Committee

Pursuant to the requirements of CEAA 2012, the Committee's Terms of Reference are as follows:

1. Mandate of the Committee

1.1 The Committee will conduct a Regional Assessment of offshore oil and gas exploratory drilling east of Newfoundland and Labrador in an area generally outlined in Appendix D. On completion of the Regional Assessment, the Committee will provide the Ministers with a Report which includes the Committee's advice on how to best use the results in a systematic way to aid decision-making based on geographically-referenced knowledge and clear criteria. As such it will meet or exceed the rigour and performance of the current environmental assessment and regulatory review process used for the approval of exploratory drilling.

1.2 In conducting the Regional Assessment, the Committee will:

- Conduct its work generally in accordance with the following phases:
 - Consulting on information and knowledge gathered by the Task Team
 - Conducting public and Indigenous engagement sessions
 - Analysis of existing information and comments received
 - Identifying and addressing knowledge gaps and, as appropriate, making recommendations to address gaps
 - Report writing, including describing how the results of the Regional Assessment could be used to guide and inform future environmental assessment and regulatory decisions related to proposed offshore exploration drilling in the region. Consultation on the draft Report and finalization in consideration of any comments received and submission of the Final Report to the Ministers.
- Engage the public and Indigenous groups throughout the development of the Regional Assessment;
- Submit regular status reports to the Ministers outlining progress and any unresolved issues;
- Ensure that all relevant information used to support the Regional Assessment is publicly accessible;
- Carry out any required consultation with Indigenous groups and the public on the draft Report; and
- Finalize and submit the Report to the Ministers.

1.3 The Committee will be supported by a Task Team and a Technical Advisory Group.

2. Reporting

2.1 The Committee will consider the spatial boundary established by the Ministers in the Agreement. The Committee will also consider the periods and areas during and within which

offshore exploratory drilling may potentially interact with, and have an effect on, components of the environment. The Committee will take into account the following:

- the natural variation of a population or ecological component;
- the timing of sensitive life cycle phases in relation to the scheduling of exploratory drilling;
- the time required for an impact to become evident;
- the time required for a population or ecological component to recover from an impact and return to a pre-impact condition, including the estimated degree of recovery;
- the area affected by offshore exploratory drilling; and
- the area within which a population or ecological component functions and within which the effects of offshore exploratory drilling may be felt.

2.2 The Committee should include in its Report the following:

- All information described in the Factors to be considered in the Regional Assessment (Appendix C).
- A description of the existing regulatory regime for oil and gas exploratory drilling and for the Regional Assessment;
- A description of the works and activities to which the Regional Assessment would apply;
- A description of the existing biophysical and socio-economic environment;
- A summary of the findings of follow-up and environmental effects monitoring programs that have been conducted in connection with offshore exploration and production drilling; and
- A description of the public and Indigenous engagement activities undertaken during the Regional Assessment, including a summary of any comments received.

2.3 The Committee will provide its advice on how the results of the Regional Assessment can be used to inform and guide future environmental assessments and regulatory decisions related to proposed offshore exploratory drilling projects within the region. This should include identifying any standard conditions that may be appropriate.

2.4 Recognizing the value of a digital, spatially-based system to house and make best use of the information generated during the Regional Assessment, the Committee will also provide its advice on the feasibility of and how best to develop, structure, maintain and keep up to date such a system, including how the system could include all pertinent spatially-derived information and knowledge on the Regional Assessment area including physical characteristics (geology, geomorphology, and oceanography), biophysical, chemical, and socioeconomic. Information could be derived from existing databases, scientific information, local knowledge, and traditional knowledge. The Committee should consider how the use of such a system could be facilitated by the development of linked operational decision criteria for all aspects of offshore exploratory drilling including, drilling technology, mitigation measures, oil spill trajectory modelling and oil spill response.

2.5 Further to 2.4, in the interests of building the Regional Assessment on such a system, the Committee will examine and report to Ministers within four months of being established on the feasibility and efficacy of developing such a system.

Appendix B

Terms of Reference – Technical Advisory Group

1. General

1.1 The Task Team will establish and provide direction to a Technical Advisory Group that will report to the Task Team and later to the Committee during the Regional Assessment. The Technical Advisory Group will be responsible for gathering information, conducting analysis, providing advice to the Committee, and if required developing the digital, spatially-based system.

2. Membership

2.1 Members will be appointed by the Task Team and later, if necessary, by the Committee in cooperation with relevant agencies and organizations. Members may vary from time to time accordingly, in relation to the work or expertise required during the course of the Regional Assessment. Members may be from within or outside of government and are to have knowledge or experience relevant to the Regional Assessment.

3. Scope of Duties

3.1 The Technical Advisory Group members will be expected to provide information and expertise with respect to their respective agencies or organizations for the purpose of furthering the objectives of the Regional Assessment.

3.2 The Technical Advisory Group members will work in a collaborative manner and use peer-reviewed science, evidence and Indigenous knowledge in the development of the Regional Assessment. They will also be expected to make available and consider all known physical, biological, social and economic characteristics of the area in a digitized, interactive and plain-language accessible format to the extent possible.

3.3 The Technical Advisory Group will, when there remain areas with significant unknowns concerning the physical, biological attributes of an area, or unknowns concerning certain drilling technology or mitigating measures, recommend to the Committee steps to fill these knowledge gaps.

3.4 The Technical Advisory Group will also consider ongoing follow-up and effects monitoring requirements along with the need for periodic updates to meet the objectives of the Regional Assessment as an effective tool to aid decision-making.

Appendix C

Factors to be considered in the Regional Assessment

1. The Regional Assessment of offshore oil and gas exploratory drilling east of Newfoundland and Labrador will be conducted so that it satisfies the requirements of CEAA 2012, and will include a consideration of the following factors:
 - (a) the changes to the environment or to health, social or economic conditions and the positive and negative consequences of these changes that are likely to be caused by offshore exploratory drilling, including
 - i. the effects of malfunctions or accidents that may occur in connection with exploratory drilling,
 - ii. any cumulative effects that are likely to result from offshore exploratory drilling in combination with other physical activities that have been or will be carried out, and
 - iii. the result of any interaction between those effects;
 - (b) mitigation measures that are technically and economically feasible and that would mitigate any adverse effects of offshore exploratory drilling;
 - (c) the impact that exploratory drilling may have on any Indigenous group and any adverse impact that offshore exploratory drilling may have on the rights of the Indigenous peoples of Canada recognized and affirmed by section 35 of the *Constitution Act, 1982*;
 - (d) the purpose of and need for offshore exploratory drilling;
 - (e) alternative means of carrying out offshore exploratory drilling that are technically and economically feasible, including through the use of best available technologies, and the effects of those means;
 - (f) Indigenous knowledge provided and considerations related to Indigenous cultures with respect to offshore exploratory drilling;
 - (g) the extent to which offshore exploratory drilling contributes to sustainability;
 - (h) the extent to which the effects of offshore exploration drilling hinder or contribute to the Government of Canada's ability to meet its environmental obligations and its commitments in respect of climate change;
 - (i) any change to offshore exploratory drilling that may be caused by the environment;
 - (j) the requirements of the follow-up program in respect of offshore exploratory drilling;
 - (k) community knowledge provided with respect to offshore exploratory drilling ;
 - (l) comments received from the public;
 - (m) comments from a jurisdiction that are received in the course of consultations;

- (n) any assessment of the effects of offshore exploratory drilling that is conducted by or on behalf of an Indigenous governing body and that is provided with respect to offshore exploratory drilling;
- (o) any study or plan that is conducted or prepared by a jurisdiction – or an Indigenous governing body not referred to above - that is in respect of a region related to offshore exploratory drilling and that has been provided with respect to offshore exploratory drilling such as strategic environmental assessments conducted by the C-NLOPB;
- (p) the intersection of sex and gender with other identity factors; and
- (q) any other matter relevant to the Regional Assessment.

Appendix D

Proposed Regional Assessment Study Area

