

DRAFT AGREEMENT TO CONDUCT A REGIONAL ASSESSMENT OF OFFSHORE WIND DEVELOPMENT IN NEWFOUNDLAND AND LABRADOR

BETWEEN:

HIS MAJESTY IN RIGHT OF CANADA, as represented by the Ministers of Environment and Natural Resources (“Canada”)

AND

HIS MAJESTY IN RIGHT OF NEWFOUNDLAND AND LABRADOR, as represented by the Minister of Industry, Energy and Technology, the Minister of Environment and Climate Change and the Minister for Intergovernmental Affairs (“Newfoundland and Labrador”)

Preamble

WHEREAS the federal Minister of Environment has statutory responsibilities under the *Impact Assessment Act*.

WHEREAS the federal Minister of Environment may establish a Committee to conduct a regional assessment of the effects of existing or future physical activities carried out in a region. Where that region is composed in part of federal lands or is entirely outside federal lands, he or she may enter into an agreement or arrangement with another jurisdiction respecting the joint establishment of a committee to conduct the assessment and the manner in which the regional assessment is to be conducted.

WHEREAS the federal Minister of Natural Resources and the provincial Minister of Industry, Energy and Technology have statutory responsibilities pursuant to the *Canada-Newfoundland and Labrador Atlantic Accord Implementation Newfoundland and Labrador Act* and the *Canada–Newfoundland and Labrador Atlantic Accord Implementation Act* (the “Accord Acts”), and have announced they intend to amend the Accord Acts to expand the mandate of the Canada-Newfoundland and Labrador Offshore Petroleum Board (the ‘C-NLOPB’) to include the regulation of offshore renewable energy.

WHEREAS the Canada-Newfoundland and Labrador Offshore Area has an abundance of offshore renewable energy resources that have the potential to help Canada and Newfoundland and Labrador achieve their objectives and commitments with respect to climate change, further decarbonize the electricity grid, and support a global transition to a low-carbon energy supply while also creating opportunities for sustainable economic development.

WHEREAS the Governments of Canada and Newfoundland and Labrador acknowledge that sustainable development seeks to attain a balance between economic activity and its benefits, environmental protection, and the health, social and

economic well-being of people and communities.

WHEREAS the Governments of Canada and Newfoundland and Labrador wish to enhance the effectiveness and efficiency of impact assessments for future offshore wind developments in the Canada-Newfoundland and Labrador Offshore Area.

WHEREAS the Governments of Canada and Newfoundland and Labrador acknowledge that portions of the Canada-Newfoundland and Labrador Offshore Area are used by Indigenous peoples who hold and exercise Aboriginal and/or Treaty rights in the area, and there is potential for offshore wind development activities to result in impacts, including cumulative impacts, to the activities, interests and rights of Indigenous peoples.

WHEREAS the Government of Canada is committed, in the course of exercising its powers and performing its duties and functions in relation to impact, regional and strategic assessments under the *Impact Assessment Act*, to ensuring respect for the rights of the Indigenous peoples of Canada recognized and affirmed by section 35 of the *Constitution Act, 1982*, and to fostering reconciliation with the Indigenous peoples of Canada.

WHEREAS the Governments of Canada and Newfoundland and Labrador wish to ensure that Indigenous peoples and the public have opportunities to participate meaningfully in the planning and conduct of the Regional Assessment that is the subject of this Agreement.

THEREFORE, the federal Ministers of Environment and Natural Resources and the provincial Ministers of Industry, Energy and Technology, Environment and Climate Change and for Intergovernmental Affairs together hereby agree to establish a Committee to conduct a Regional Assessment of offshore wind energy development in the Canada-Newfoundland and Labrador Offshore Area, in accordance with the provisions of this Agreement and the Terms of Reference attached as Appendix A.

Definitions

For the purpose of this Agreement:

“**Accord Acts**” refer to the *Canada-Newfoundland and Labrador Atlantic Accord Implementation Newfoundland and Labrador Act* and the *Canada–Newfoundland and Labrador Atlantic Accord Implementation Act*.

“**Agency**” means the Impact Assessment Agency of Canada established under the *Impact Assessment Act* (IAA).

“**Canada-Newfoundland and Labrador Offshore Area**” has the same meaning as “offshore area” as defined in the Accord Acts.

“**Committee**” means the Committee established to conduct the Regional Assessment to which this Agreement pertains.

“**Effects**” has the same meaning as in the IAA.

“**IAA**” means the federal *Impact Assessment Act*, S.C. 2019.

“**Indigenous Knowledge**” means knowledge held and shared by, and based on the worldview of, Indigenous peoples that is relevant to the Regional Assessment.

“**Indigenous peoples**” has the meaning assigned by the definition “*aboriginal peoples of Canada*” in subsection 35(2) of the *Constitution Act, 1982*.

“**Ministers**” means, collectively, the federal Ministers of Environment and Natural Resources and the provincial Ministers of Industry, Energy and Technology, Environment and Climate Change and for Intergovernmental Affairs.

“**Mitigation measures**” has the same meaning as in the IAA.

“**Offshore wind development activities**” means the physical activities associated with the construction, including expansion, operation and decommissioning of an offshore wind generation facility and the associated offshore components and activities that support it, are specific to that facility, and are proposed as part of that offshore facility for the purposes of its development and impact assessment. These physical activities include the transmission of electricity to shore.

“**Regional Assessment**” means the Regional Assessment that is conducted under this Agreement, pursuant to the IAA.

“**Report**” means the Regional Assessment Report produced by the Committee pursuant to subsection 102 (1) of the IAA.

“**Study Area**” means the Study Area for the Regional Assessment as described in Section 1.4 of this Agreement.

“**Sustainability**” has the same meaning as in the IAA.

“**Terms of Reference**” means the terms of reference for the Committee, which form part of this Agreement and are attached as Appendix A of it.

Interpretation

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 area within the Offshore Area or any living or non-living resources, including renewable resources, of any offshore area.

The Agreement has been developed to meet the requirements of the IAA. Should the IAA be repealed and replaced by new legislation, this Agreement remains valid.

1.0 Regional Assessment Goal, Objectives and Scope

1.1 The goal of the Regional Assessment is:

To provide information, knowledge and analysis regarding future offshore wind development activities in the Study Area 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 and health, social and economic conditions while also creating opportunities for sustainable economic development.

1.2 The objectives of the Regional Assessment 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 of offshore wind development activities in the Study Area, with consideration and weaving together of both Indigenous knowledge and scientific information.
- b) Providing an understanding of the regional context that can be used in considering and evaluating the effects of future offshore wind development activities, to inform future planning and licencing processes and impact assessments, including the management of cumulative effects.
- c) Identifying and recommending mitigation 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, in a manner that fosters sustainability.
- d) Describing how the findings or recommendations of the Regional Assessment could be used to inform future planning and licencing processes for these activities and to enhance the effectiveness and efficiency of their impact assessments.

1.3 The Regional Assessment will focus on future offshore wind development activities in the Study Area, 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 (see Appendix A, Section A.2).

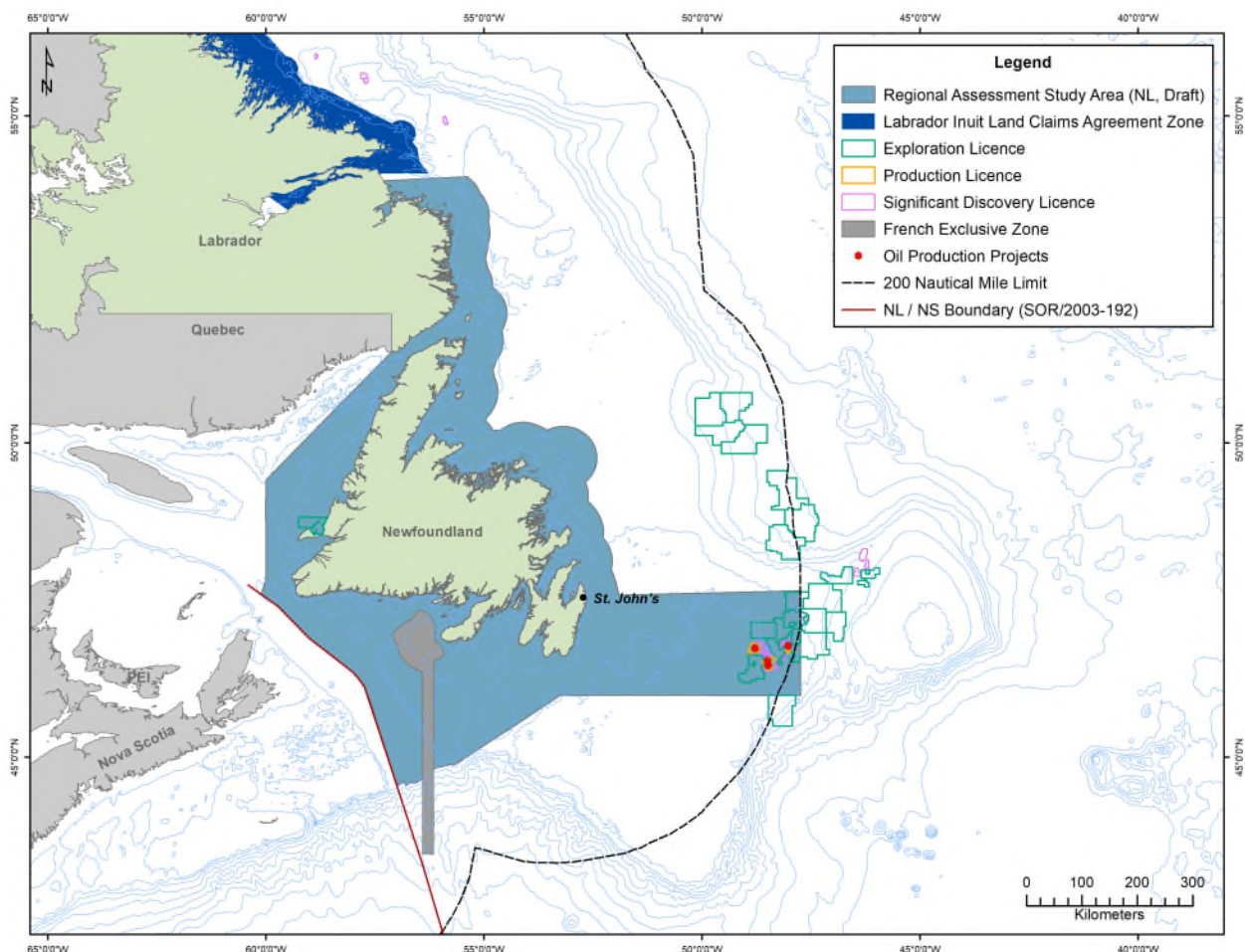
1.4 The Study Area for the Regional Assessment is as defined in Figure 1.1 below. The Study Area comprises portions of the Canada-Newfoundland and Labrador Offshore Area where future offshore wind development activities may be technically and economically feasible, based on current and foreseeable technologies. It does not include or exclude specific locations or features based on potential environmental, health, social or economic effects, in order to allow the Regional Assessment to provide a complete and fulsome

analysis of these issues across this region, to inform future decision-making. For greater clarity, the inclusion or exclusion of specific portions of the Canada-Newfoundland and Labrador Offshore Area in the Study Area does not reflect whether particular locations will or should be subject to future offshore wind development activities.

The Study Area therefore comprises the geographic region within which the Regional Assessment will help inform future decisions around whether particular locations will be subject to future licencing processes for offshore wind development activities, as well as the impact assessments of any such developments.

1.5 The Regional Assessment 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 1.1: Regional Assessment Study Area (Newfoundland and Labrador)



2.0 Establishment, Purpose and Composition of the Committee

2.1 A Committee will be established pursuant to subsection 93(1) of the IAA. The

Committee will conduct the Regional Assessment in accordance with the IAA, this Agreement, and its Terms of Reference contained in Appendix A of this Agreement.

2.2 The Committee will consist of five members, appointed by the federal Minister of Environment with the agreement of the federal Minister of Natural Resources and the provincial Minister of Industry, Energy and Technology.

2.3 Should one or more Committee members be unable to complete the Regional Assessment, the Ministers will decide whether to replace the Committee member(s) or to have the Committee proceed to complete the Regional Assessment with the remaining members.

2.4 The Committee will have all the powers and obligations set out under sections 97 to 102 of the IAA.

2.5 The Committee's mandate and responsibilities, outlined in its Terms of Reference (Appendix A), are established by the federal Minister of Environment in accordance with subsection 93(3) of the IAA.

2.6 The Committee will have knowledge or experience relevant to the Regional Assessment, including with respect to offshore wind development activities that may occur in the Study Area, the potential effects that may be associated with these, and of the interests and concerns of Indigenous peoples, stakeholder groups or the public that are relevant to the Regional Assessment.

2.7 The Committee members will have knowledge or experience related to one or more of the following: impact assessment; regional assessment; environmental, health, social or economic effects (positive and adverse) and their management; sustainability; Indigenous and public participation; and/or Indigenous peoples and their communities, activities, interests, perspectives and knowledge.

2.8 The Committee members will be unbiased and free from real or perceived conflict of interest with respect to the Regional Assessment.

3.0 Committee Secretariat

3.1 A Secretariat will be established to provide administrative and technical support to the Committee during the conduct of the Regional Assessment.

3.2 The Secretariat will be co-managed by the Agency and the Newfoundland and Labrador Department of Industry, Energy and Technology and comprised of staff assigned from the Agency, C-NLOPB, Natural Resources Canada, and the Newfoundland and Labrador Department of Industry, Energy and Technology.

3.3 The activities and responsibilities of the Secretariat will include: work planning and scheduling, communications, administration and record keeping, compiling and providing information and knowledge (both Indigenous and scientific) that is relevant to the

Regional Assessment, including that received from participants as per Section 3.5 below; support for public and Indigenous participation activities; and the drafting of documents and other materials at the direction of the Committee.

3.4 The Secretariat will identify, compile and provide to the Committee existing and available information that is relevant to the Regional Assessment including information related to: environmental, health, social and economic conditions; offshore wind development activities and their potential effects; mitigation measures; monitoring and follow-up measures; and other information as applicable subject to any limits on the use of such information or the need to update or otherwise verify the information.

3.5 Existing information includes but is not limited to that contained in any past or ongoing impact or environmental assessments, including strategic environmental assessments, and information and knowledge provided by Indigenous peoples, government, industry, academia, or the public.

3.6 Funding will be made available by the Agency to facilitate the involvement of Indigenous communities and organizations, non-government organizations and individuals in the Regional Assessment through the Agency's Participant Funding Program.

4.0 Advisory Groups

4.1 Advisory groups will be established by the Committee to provide it with information and advice during the conduct of the Regional Assessment, as follows:

- 1) *Indigenous Knowledge and Perspectives Advisory Group*
- 2) *Scientific and Technical Information and Analysis Advisory Group*
- 3) *Fisheries Advisory Group*

Further information on the establishment, composition and functioning of these advisory groups is provided in the attached Terms of Reference (Appendix A).

4.2 Involvement in, and the provision of information and input through, one or more of these advisory groups will not restrict any individual's or organization's participation in the public and Indigenous participation activities undertaken by the Committee, nor the ability to make separate submissions during the Regional Assessment process.

5.0 Participation of Government Departments and Agencies

5.1 In addition to participation through the above referenced advisory groups, federal authorities and provincial authorities having specialist or expert information or knowledge with respect to the Regional Assessment may be required to make that information or knowledge available to the Committee in an acceptable manner and within a specified period.

5.2 This may include providing information, knowledge or advice related to any matter relevant to the Regional Assessment as requested by the Committee.

6.0 Report and Records

6.1 The Committee will describe the conduct, and document the results, of the Regional Assessment in its Report as outlined in its Terms of Reference (Appendix A). In addition, the Committee will include a summary of its Report in plain language and available in English, French, Mi'kmaw, Innu-aimun and Inuktitut.

6.2 The Committee will complete its work and submit its Report (all components) to the Ministers within 18 months of the public announcement of the appointment of its members. Further information on the timing of particular aspects of the Committee's work and associated reporting on these is provided in Appendix A.

6.3 Upon receiving the Committee's Report, the Ministers will make it available to the public and Indigenous groups and will advise the public and Indigenous groups that it is available on the Canadian Impact Assessment Registry Internet site.

6.4 The Canadian Impact Assessment Registry, which is comprised of project files and an Internet site, will be maintained by the Agency on behalf of the Committee during the conduct of the Regional Assessment in a manner that provides for convenient public access.

6.5 The Canadian Impact Assessment Registry will include public announcements, the Committee's Report, and submissions and comments received by the Committee from the public or Indigenous groups during the Regional Assessment.

6.6 After the Committee's Report is submitted, the information outlined above will remain publicly available on the Canadian Impact Assessment Registry.

7.0 Interjurisdictional Cooperation

7.1 The parties to this Agreement will work cooperatively, in accordance with this Agreement, in the conduct of the Regional Assessment, including in considering and responding to:

- a) Any public submissions, including questions or comments, that may be received by the Ministers or by their respective departments or agencies during and regarding the conduct of the Regional Assessment; and
- b) Any request from the Committee for clarification or amendments to its Terms of Reference (Appendix A) or other related matters, including the regular status updates provided by the Committee.

7.2 Once the Committee's Report has been submitted, the parties to this Agreement will continue to work together to consider and determine whether and how to respond to and

implement the findings and recommendations resulting from the Regional Assessment.

8.0 Costs

8.1 The Agency, Natural Resources Canada, and the Newfoundland and Labrador Department of Industry, Energy and Technology will develop and agree upon a budget for the completion of the Regional Assessment, including the manner in which these costs will be shared between the parties to this Agreement.

8.2 This budget will be communicated to the Committee at the commencement of the Regional Assessment. In accordance with its Terms of Reference (Appendix A), the Committee will complete the Regional Assessment within the budget developed in accordance with Subsection 8.1.

8.3 The Committee may request an amendment to the budget referred to in Subsection 8.1, in accordance with Section A4 of its Terms of Reference (Appendix A). The Committee must receive prior written approval of any amendment to its budget before proceeding with any associated expenditures.

8.4 Any costs incurred by the Committee must be submitted for payment within 30 days of submission of its final Report.

9.0 Amending the Agreement

9.1 The terms and provisions of the Agreement may be amended by written memorandum executed by the Ministers.

9.2 The Agreement may be terminated by either party at any time by written notice signed by either one of the Ministers with 30 days' notice of termination.

10.0 Signatures

10.1 This Agreement may be signed by the parties in counterpart.

[SIGNATURES AND DATES]