



**COMMENTS ON ECCC DISCUSSION
PAPER,
“DEVELOPING A
STRATEGIC ASSESSMENT
OF CLIMATE CHANGE”**

Submission to Environment and Climate Change Canada

Équiterre, August 31, 2018

Analysis by Shelley Kath

Introduction

Équiterre appreciates the opportunity to provide this submission to Environment and Climate Change Canada (ECCC) in relation to its discussion paper, “Developing a Strategic Assessment of Climate Change”. As we stated in our most recent comments on Bill C-69, submitted April 6, 2018, Équiterre applauds the fact that the proposed *Impact Assessment Act* specifically mentions climate change and Canada’s obligations to meet international agreements related to climate change, in key provisions relating to factors to be considered in assessing project impacts (s. 22(1)(i)) and factors to be considered during the public interest determination (s. 63(e)). It is worth recalling the language of both of these provisions, which requires consideration of:

“the extent to which the effects of the designated project hinder or contribute to the Government of Canada’s ability to meet its environmental obligations and its commitments in respect of climate change;”

We are pleased to see the government move to the next step in respecting these proposed provisions by initiating the development of a strategic assessment of climate change that would provide guidance “on how climate change commitments should be considered in impact assessments”. (p. 1, Discussion Paper).

About Équiterre

Équiterre, a non-profit, charitable organization with offices in Montréal, Quebec City and Ottawa, has worked for 25 years to raise awareness and advocate for sound environmental and energy policies in Quebec, Canada and on the international scene as well. Since its creation in 1993, Équiterre’s primary mission has been to help build a social movement by encouraging individuals, organizations and governments to make ecological and equitable choices, in a spirit of solidarity. Our organization includes 21,000 members and more than 130,000 supporters located largely in Eastern Canada, and also manages the world’s largest community-supported agriculture program, with over 120 organic farms in Quebec. As a leading organization covering the full gamut of environmental and energy issues in Canada, including climate change, clean energy, transportation, and a host of related issues, Équiterre is well-positioned to offer comments pertaining to the development of a strategic assessment on climate change.

Scope of our comments

Équiterre’s comments in this submission are focused primarily on process issues, rather than on the specific components of a strategic assessment of climate change raised in the Discussion Paper, for reasons explained below. We look forward to providing more detailed input on some of the substantive issues at future stages of the process, preferably prior the issuance of a draft strategic assessment

report and the consultation on that draft mentioned on p. 7 of the Discussion Paper.

Comments on Developing the Strategic Assessment on Climate Change

Équiterre wishes to raise the following issues and concerns in relation to the process suggested in the Discussion Paper for developing the Strategic Assessment on Climate Change.

The elements for determining a project's consistency with Canada's climate change commitments and policies should be developed by an independent Expert Panel, and such panel should not be constrained by the Government's suggestions in the Discussion Paper.

Much of the Discussion Paper is devoted to a presentation of proposed elements of a Strategic Assessment of Climate Change. With all due respect, Équiterre believes that it is simply premature to discuss those kinds of details at this point, particularly in advance of the establishment of an independent Expert Panel, which we believe is absolutely essential to the credibility and effectiveness of this exercise. As is further explained below, Équiterre asserts that an independent Expert Panel is needed to determine the questions, methods and information for evaluating the climate impacts of proposed projects and determining how to evaluate such impacts in light of Canada's climate commitments under the Paris Agreement and the Pan-Canadian Framework on Clean Growth and Climate Change.

A stark example of the problem posed by setting out proposed elements of a Strategic Assessment of Climate Change in advance, as the Government does in the Discussion Paper, is seen in the scope of emissions to be considered. The Discussion Paper presents four key elements of a strategic assessment of climate change on p. 3: quantification of a project's GHG emissions, GHG emission thresholds, early planning, and impact assessment. In discussing the first of these elements – quantification of a project's GHG emissions – the Discussion Paper simply states that "Downstream emissions would not be assessed." This would represent a huge departure and step backwards from where we were in the case of projects like Energy East, for which the most recent NEB Panel charged with evaluating that project had determined that all incremental impacts would be considered, including downstream emissions. For the Government to determine large and contentious issues such as this one before an Expert Panel is even convened would call into question the Government's sincerity in wanting to ensure an effective, thorough and objective development of a Strategic Assessment of Climate Change.

The Government should establish a fully independent Expert Panel to carry out the Strategic Assessment of Climate Change, similar to that used in the Environmental Assessment Review.

For the sake of credibility, integrity and effectiveness of the exercise, Équiterre asserts that it is essential that the Government appoint a fully independent panel of experts and that the Strategic Assessment be carried out by the panel. The Discussion Paper indicates on p. 7 that the Government is

“considering the establishment of an expert advisory panel for the Strategic Assessment of Climate Change”. Équiterre asserts that it is absolutely critical that an Expert Panel be established, and that it be fully independent of the Government. We recommend it be described as an “Expert Panel” and not as an “Expert Advisory Panel” in order to underscore the fact that the purpose of the panel is not to represent views of “stakeholders” but rather to provide independent, expert advice.

Furthermore, in order to be truly independent, Équiterre believes that Panel members should not be currently employed by or represent the oil or gas industry (whether connected to extraction or transportation).

As with the Expert Panel established for the Environmental Assessment Review, the panel should consist of professionals with demonstrated expertise in a variety of disciplines related to the nexus of impact assessment and climate change (e.g., experts in climate science, energy economics, social impacts of climate change, just transition to a clean energy economy, environmental and social impact assessment generally). It should also be diverse geographically and include representation from indigenous communities.

Équiterre recommends that the Expert Panel be mandated to follow a full program of public engagement for purposes of gaining meaningful public input on the Strategic Assessment of Climate Change. To that end, it could draw from the roving public workshops used by the Expert Panel for the Environmental Assessment Review.

Équiterre further recommends that the Expert Panel be provided the resources it needs in order to engage in meaningful public engagement and to ensure it has access to all the necessary expertise, information, and documents it requires.

The independent Expert Panel should be given broad terms of reference that allow it to identify the questions, methods and expert information it deems important for determining a project’s consistency with Canada’s climate change commitments and policies.

In order to do an effective and thorough study of issues, policies and laws, and produce a fully-considered and well-sourced report on the Strategic Assessment of Climate Change, the independent Expert Panel will require broad terms of reference (TOR). Specifically, Équiterre asserts that the TOR must provide the Expert Panel with the flexibility that will allow it to ask and answer any questions it deems pertinent to its mandate of determining an approach for evaluating the climate implications of projects. In this respect, and as mentioned above, the Discussion Paper provides a scope of inquiry that is unnecessarily and inappropriately narrow.

An essential requirement of the terms of reference for the Strategic Assessment of Climate Change is that the Paris Agreement, and Canada’s obligations in relation to it, serve as the both anchor and guidepost for the development of the Strategic Assessment, from beginning to end.

In keeping with the intentions of the legislator in sections 22(1)(i) and 63(e) of the proposed *Impact Assessment Act*, it is essential that Canada's Paris Agreement obligations in relation to both the 2 and 1.5 degree Celsius targets, constitute the starting point for the Assessment (see page 1 of this submission for the specific language common to both provisions). The ultimate result of the Strategic Assessment of Climate Change should be a specific approach for determining how the Paris Agreement, as well as the Pan-Canadian Framework on Clean Growth and Climate Change (PCF), would be considered in project reviews. This result can only be reached if there is a specific and firm commitment to plan the Strategic Assessment of Climate Change around these agreements. Furthermore, in order to live up to Canada's obligation under the Paris Agreement to do its fair share to limit global average temperature rise to well below 2 degrees Celsius and pursue efforts to limit the increase to 1.5 degrees Celsius, it is important that in specifying the climate agreements in the TOR, there be a specific acknowledgement that Canada's target of 30% reduction below 2005 levels by 2030 represents a floor and not a ceiling. This would be consistent with previous statements by Minister McKenna.¹

While the Discussion Paper mentions the Paris Agreement and PCF in its discussion of "context" for the approach, it does not specifically mention them in its discussion of the four elements it suggests for determining a project's consistency with Canada's climate change commitments and policies. This cannot be left to chance. It is critical that the Paris Agreement be anchored explicitly as a guiding consideration in the development of this Strategic Assessment.

The independent Expert Panel's recommendations should be fully considered for implementation by way of regulations.

In order for the Strategic Assessment of Climate Change to be both a credible and effective exercise, it must result in real-world action. This is best accomplished not simply by way of policy statements, but by integration into the law through regulations issued under the *Impact Assessment Act*. Furthermore, and again underscoring the need to ensure credibility, Équiterre recommends that any decision by the Government to reject one or more of the Expert Panel's recommendations be justified explicitly to the public, in writing.

Conclusion and Key Recommendations

ECCC's Discussion Paper raises some interesting issues and questions concerning the development of an approach to handling climate change issues and impacts within the scope of project impact assessments. On the whole, however, Équiterre is concerned that the Discussion Paper tends to predetermine, at least in general terms, the scope of the very exercise that should be carried out by an

¹ Bruce Cheadle, "Catherine McKenna says Canada won't set emissions target, Tory targets will be 'floor'", The Canadian Press, November 9, 2015, available at: <https://www.cbc.ca/news/politics/catherine-mckenna-paris-talks-tory-target-1.3311482>.

Expert Panel – namely, to develop the approach and method for determining how climate change commitments should be considered during impact assessments of proposed projects.

Our top line recommendations may be summarized as follows:

- Establish an independent Expert Panel comprised of members possessing the collective expertise needed to determine what will be required in the context of project decision-making, to ensure that Canada respects its international climate obligations;
- Provide the independent Expert Panel with broad terms of reference that allow it full capability to identify the questions and methods that will best guide the development of an approach to determining the impact of proposed projects on Canada's ability to meet its climate targets;
- Ensure in the terms of reference for the Strategic Assessment of Climate Change that the Paris Agreement serves as the focal point for structuring the assessment, from beginning to end;
- Ensure that the independent Expert Panel's recommendations are fully considered by the government for implementation via regulations issued under the *Impact Assessment Act*, and that any decision by the Government to reject one or more of the Expert Panel's recommendations be justified explicitly to the public, in writing.