



FILE UPDATE – As of February 2016

**Implementation of the JBACE's recommendations relating to public participation
in the Section 22 JBNQA assessment and review procedure**

The JBACE began its work on the issue of public participation in the environmental and social assessment and review procedure in 2009. At the time, conclusions of a collaborative research project outlined certain elements requiring the JBACE's attention in this regard – namely on the matter of transparency and public access to information.

The JBACE tabled a progress report in September 2012 in order to provide preliminary recommendations on the topic and to highlight the works concluded at that time. The final report was tabled in May 2015.

The recommendations contained in the final report consider all of the results compiled since the start of the work in 2009. These include:

- Insights from the JBACE's subcommittee;¹
- Conclusions from a literature review;
- Results from a comparative analysis of public participation in the Section 22 JBNQA procedure with that applicable in other jurisdictions;²
- A case study on the public participation component of a project subject to a Section 22 review.³

Both the progress report and the final report were sent to the signatory parties concerned by Section 22 of the JBNQA. The JBACE recognized that the implementation of the recommendations therein requires the implication of various governments and ministries, the assessment and review bodies, as well as project proponents.

While the JBACE was in the midst of its analyses prior to the tabling of its final report in May 2015, several important steps were taken to improve public participation and access to information by the provincial and federal ministries, and by the assessment and review bodies. The JBACE intends to take stock of the initiatives that have or are in the process of being implemented in line with the recommendations.

The following table outlines the results of the JBACE's analysis that were used to support the recommendations, the progress made in their implementation, and the elements that still require improvements. The JBACE invited the assessment and review committees to comment on the initial draft of the table.

¹ Experts from academia and governments, as well as members of the Section 22 assessment and review bodies were involved in the work up to September 2012.

² The procedures in southern Québec, under the *Canadian Environmental Assessment Act, 2012*, in the Yukon, the Mackenzie Valley, and in Nunavut, were selected.

³ Interviews were conducted with public and expert participants on hand during the review of the Matoush Advanced Uranium Exploration Project.

Summary Table – Implementation of the JBACE’s recommendations relating to public participation in the Section 22 JBNQA assessment and review procedure

Transparency and access to information			
Supporting results	Recommendations (May 2015)	Progress made	Elements to be considered
<ul style="list-style-type: none"> - Registries are available in all of the other jurisdictions studied in the comparative analysis. 	<ul style="list-style-type: none"> Establish an online registry for projects undergoing assessments and reviews: 	<ul style="list-style-type: none"> - MDDELCC is working on a province-wide registry (since Sept. 2012); - COMEX established a registry in Nov. 2014; - COFEX-South established a registry in Nov. 2010, maintained by the Canadian Environmental Assessment Agency. 	<ul style="list-style-type: none"> - No registry for COMEV assessments as of yet; - The MDDELCC’s registry has yet to be implemented. It is expected to include information on projects subject to the Section 22 assessments and reviews.
<ul style="list-style-type: none"> - A maximum of information is available in all of the other jurisdictions studied in the comparative analysis; - Best-practice per the literature review. 	<ul style="list-style-type: none"> • Include Preliminary Information submitted by proponents, environmental impact statement guidelines (directives), environmental impact statements (EIS) and summaries, notices for public participation activities, information obtained from public consultations, and the recommendation reports of the assessment and review bodies; 	<ul style="list-style-type: none"> - COMEX registry includes the elements listed in the recommendation; - COFEX-South registry includes the elements listed in the recommendation. 	<ul style="list-style-type: none"> - No registry for COMEV assessments as of yet.
<ul style="list-style-type: none"> - Public commentary on guidelines for EIS occurs in three of the five jurisdictions studied in the comparative analysis; - Best-practice per the literature review; - Expressed by participants during the case study. 	<ul style="list-style-type: none"> • Prior to a review, a public commentary period should be established regarding the Administrator’s draft guidelines for the EIS. This commentary period should be coordinated through the online registry and apply for certain classes of projects; 	<ul style="list-style-type: none"> - 	<ul style="list-style-type: none"> - The recommendation has yet to be implemented; - The MDDELCC proposes to establish a consultation process upstream from project assessments and reviews, in the context of strategic environmental assessments. But, this process will not apply for the EIS guidelines (directives) and the provisions of this proposed process are still to be determined.

Transparency and access to information			
Supporting results	Recommendations (May 2015)	Progress made	Elements to be considered
<ul style="list-style-type: none"> - Centralised registries are available in all of the other jurisdictions studied in the comparative analysis. 	<ul style="list-style-type: none"> • Establish links between existing and planned registries for provincial and federal reviews, and include information used at the assessment stage (EIS guidelines and proponent's Preliminary Information); 	<ul style="list-style-type: none"> - COMEX website offers a link to the COFEX-South registry. 	<ul style="list-style-type: none"> - The recommendation has yet to be fully implemented and remains relevant for the registry being developed by the MDDELCC; - Links will be crucial given that there may eventually be three registries for projects subject to Section 22 assessments and reviews; - <i>COFEX-South proposes the creation of a single registry for the whole assessment and review procedure.</i>
<ul style="list-style-type: none"> - Information available on projects in both official languages and in Aboriginal languages in three of the five jurisdictions studied in the comparative analysis; - Best-practice per the literature review; - Expressed by participants during the case study. 	<ul style="list-style-type: none"> • Make the information available in French and in English, and, on a case by case basis, specific documents in Cree given the importance that the Cree language has in Cree society. 	<ul style="list-style-type: none"> - COMEX and registry includes some information in English, majority is in French; - COFEX-South registry includes information in English and French in equal portion. 	<ul style="list-style-type: none"> - The availability of information in Cree must be considered; - <i>The provincial Administrator expressed interest in considering the translation, on a case-by-case basis, of authorization certificates (by letter, Sept. 2015);</i> - <i>According to COFEX-South, the JBACE should make recommendations on which documents are to be translated in English or Cree, as well as their formats (print, video, etc.).</i>

Production of guidance and public awareness material			
Supporting results	Recommendations	Progress made	Elements to be considered
<ul style="list-style-type: none"> - Guidance materials are available in all of the other jurisdictions studied in the comparative analysis; - Best-practice per the literature review; - Expressed by participants during the case study. 	<p>Develop and disseminate guidance materials that provide general information on the assessment and review procedure and on public participation:</p>	<ul style="list-style-type: none"> - COMEX developed general guidance materials on its reviews in Nov. 2014, and a directive on participation in Feb. 2015; - MDDELCC has included some general information on the Section 22 procedure on its website. 	<ul style="list-style-type: none"> - No specific guidance materials available for COMEV assessments or for participation therein; - No specific guidance materials available for COFEX-South reviews or for participation therein; - <i>The provincial Administrator expressed interest in collaborating with the JBACE for the preparation of such materials (by letter, Sept. 2015);</i> - <i>COFEX-South suggests using existing guides as a basis (e.g. COMEX, COFEX-North) and having a single guide for the whole assessment and review procedure.</i>
<p>See above.</p>	<ul style="list-style-type: none"> • Clarify the roles of the stakeholders and bodies involved in assessments and reviews, as well as the triggers, timing, planning, and protocols for public participation activities; 	<ul style="list-style-type: none"> - COMEX developed general guidance materials on its reviews in Nov. 2014, and a directive on participation therein in Feb. 2015. 	<p>See above.</p>
<p>See above.</p>	<ul style="list-style-type: none"> • Outline best practices relating to public participation at each stage of the assessment and review procedure, as well as for proponent-planned activities; 	<ul style="list-style-type: none"> - COMEX developed a directive on participation in Feb. 2015. - <i>The Cree Nation Government plans to develop a guide intended for proponents.</i> 	<ul style="list-style-type: none"> - Development of specific guidance materials for proponents should be considered; - <i>According to COFEX-South, the JBACE could propose documents applicable to the whole assessment and review procedure.</i>

Production of guidance and public awareness material

Supporting results	Recommendations	Progress made	Elements to be considered
<ul style="list-style-type: none"> - Information on the procedure available in both official languages and in Aboriginal languages in three of the five jurisdictions studied in the comparative analysis; - Best-practice per the literature review; - Expressed by participants during the case study. 	<ul style="list-style-type: none"> • Provide the public with information in non-technical language in French, in English, and in Cree; 	<ul style="list-style-type: none"> - COMEX registry includes information in English, majority is in French. Brief non-technical project summaries are available; - COFEX-South registry includes information in English and French. Brief non-technical project summaries are available. 	<ul style="list-style-type: none"> - The availability of information in Cree must be considered; - <i>COFEX-South suggests that the JBACE identify which type of documents should be translated in English or in Cree.</i>
<ul style="list-style-type: none"> - Glossaries are available in both official languages and in Aboriginal languages in one of the five jurisdictions studied in the comparative analysis; - Expressed by participants during the case study. 	<ul style="list-style-type: none"> • Publish glossaries of frequently-used technical terms in Cree, in French, and in English. • Circulate these glossaries during public participation activities. 	<ul style="list-style-type: none"> - <i>The Cree Regional Authority and the Canadian Environmental Assessment Agency produced a Cree glossary during the review of the Matoush uranium exploration project (2010).</i> 	<ul style="list-style-type: none"> - The recommendations have not been fully implemented to date; - The provincial Administrator expressed interest in collaborating with the JBACE for the preparation of such materials (by letter, Sept. 2015); - <i>According to COFEX-South, a single glossary should be applicable to the whole assessment and review procedure.</i>

Strategy to promote public participation and to improve public awareness

Supporting results	Recommendations	Progress made	Elements to be considered
<ul style="list-style-type: none"> - Need for strategy promoting participation expressed by participants during the case study. 	<p>Develop a strategy for raising public awareness about the assessment and review process and implicate local and regional organizations in its implementation:</p>	-	The recommendation have not been implemented but.
<ul style="list-style-type: none"> - Best-practice in terms of communicating and accommodating the public per the literature review; - Expressed by participants during the case study. 	<ul style="list-style-type: none"> • Outline different measures to facilitate participation during assessment or reviews (e.g. using web-diffusion and remote participation technologies, timing of activities to maximize attendance); 	<ul style="list-style-type: none"> - COMEX now offers the opportunity to provide written comments via their website; - COMEX and COFEX-South make efforts to adapt the timing of activities to maximize participation. 	<ul style="list-style-type: none"> - Further means of participating with the aid of remote technologies should be explored; - <i>According to COFEX-South, there should be a common approach to communications during the assessment and review procedure, including, among other things, remote participation technologies.</i>
<ul style="list-style-type: none"> - Need for training expressed by participants during the case study. 	<ul style="list-style-type: none"> • Establish training or orientation sessions on the assessment and review procedure for the citizens and communities, so that they may develop a better understanding of the process and on how to participate. 	<ul style="list-style-type: none"> - Cree First Nations (Band Councils) and Cree Nation Government involved in preparation for consultations; - COMEX and COFEX-South systematically explain the procedure before all consultations. 	<ul style="list-style-type: none"> - Additional involvement of the signatory parties should be considered; - <i>The provincial Administrator expressed interest in collaborating with the JBACE for the preparation of such tools (by letter, Sept. 2015);</i> - <i>According to COFEX-South, there should be a single training covering the whole assessment and review procedure.</i>

Resources and consistency			
Supporting results	Recommendations	Progress made	Elements to be considered
<ul style="list-style-type: none"> - A participant funding program is in place in one of the five jurisdictions studied in the comparative analysis; - Expressed by participants during the case study. 	<ul style="list-style-type: none"> • Consider the establishment of a participant funding program to facilitate and support the participation of the citizens and communities; 	<ul style="list-style-type: none"> - 	<ul style="list-style-type: none"> - The recommendation has yet to be implemented.
<ul style="list-style-type: none"> - Fixed terms for members of the assessment and review bodies are in place in three of the five jurisdictions studied in the comparative analysis; - Expressed by participants during the case study. 	<ul style="list-style-type: none"> • Offer new members of the assessment and review bodies the required preparation, training or mentoring, and support to exercise these functions given that the planning and chairing of public participation activities requires specialized skill sets. The following should also occur: <ul style="list-style-type: none"> - Staff the secretariats of these bodies with employees that have the necessary qualifications and experience to manage the logistical aspects and related requirements of planning and undertaking public participation activities. - Consider the possibility of establishing fixed terms for members of the Section 22 assessment and review bodies that may be renewed as required. 	<ul style="list-style-type: none"> - In Oct. 2015, COMEX and COFEX-South confirmed that all of their respective resource needs are met when required; and, the length of their members' terms is not an issue. 	<ul style="list-style-type: none"> - <i>The Deputy Minister of MDDELCC wrote that it is in the interest of COMEV and COMEX to keep their members for long terms to share the experience and improve knowledge. Fixed terms could bring higher turnover (Sept. 2015 letter).</i> - <i>COFEX-South explains that there is no full-time staff person at its secretariat, as there are few projects subjected to the federal review process.</i>