



The Paris to Projects Research Initiative

Briefing Note

Climate components to look for in the new federal assessment law – will the law’s requirements be consistent with meeting Canada’s *Paris Agreement* commitments to climate change mitigation?

The word “climate” does not appear in the *Canadian Environmental Assessment Act, 2012*, and decisions under that law have not helped Canada move towards meeting our international commitments to greenhouse gas emission reductions in line with our commitments and basic responsibilities to future generations.

The current federal government, however, has signed the *Paris Agreement* and engaged actively in new climate initiatives and is about to introduce new assessment legislation that can and should play a key role in meeting our international commitments.

The following points identify the key climate-related components needed in the new law and in assessments of individual proposed projects and strategic undertakings under that law.

1. The statute should establish climate change mitigation consistent with international commitments as a fundamental requirement while also providing broad direction for the specifics to be set out in regulations. This approach is needed to anticipate the rising ambition of international and national climate change mitigation goals and accommodate the need to learn from experience.
2. The purposes section of the statute should include the objective of contributing to maintaining a healthy and stable climate for future generations and, more specifically, to meeting Canada’s international commitments, including those on climate change.
3. The section(s) of the statute related to determining the application of assessment requirements to particular undertakings (sometimes called the “triggering” sections) should explicitly require the application to project and strategic-level undertakings that may affect prospects for meeting Canada’s international climate change mitigation commitments. This should include projects that have direct or indirect lifetime implications for GHG emissions and/or GHG sinks and/or that may hinder or delay timely transition to a clean economy based on low carbon energy systems. In case of a

project list (and strategic undertaking list) approach, these legislative criteria should guide the development of the initial list as well as additions to it over time.

4. The scope of effects to be addressed under the statute should be broadly encompassing of matters that could affect lasting wellbeing, and the section of the statute on “factors for consideration” in all assessments should include “implications for meeting Canada’s international climate change mitigation commitments over the life of the project or other undertaking.”

5. The sections of the statute on criteria for evaluations and decision-making concerning proposed undertakings should include attention to whether or not a proposed undertaking would contribute to maintaining a healthy and stable climate for future generations and, more specifically, to meeting Canada’s international climate change mitigation commitments over the life of the project or other undertaking.

6. The sections of the statute setting out regulation-making powers should include provisions for specifying or clarifying requirements on climate-related matters. Regular reviews of regulations should be required in order to learn iteratively from the emerging climate science and to respond to the progressive increase in ambition under the *Paris Agreement*. Specific provisions should provide regulation-making powers concerning, minimally:

- details on the climate-related factors for consideration and associated information requirements,
- more specific climate-related criteria and trade-off rules for evaluations and decision making, and
- tools and analytical approaches (or “tests”) for determining whether a proposed undertaking would contribute to meeting Canada’s international climate change mitigation commitments.

Paris to Projects Research Initiative Directors

Robert B. Gibson, Professor
School of Environment, Resources and Sustainability, University of Waterloo
rbgibson@uwaterloo.ca

Karine Péloffy, Directrice Générale
Centre Québécois du Droit de L’Environnement
karine.peloffy@cqde.org

Meinhard Doelle, Professor of Law
Schulich School of Law, Dalhousie University,
meinhard.doelle@dal.ca

H. Damon Matthews, Professor and Concordia Research Chair in Climate Science and Sustainability,
Department of Geography, Planning and Environment, Concordia University
damon.matthews@concordia.ca

Additional signatories

Karen Campbell
Climate Change Program Director
Ecojustice Canada
kcampbell@ecojustice.ca

Sara Seck
Associate Professor of Law
Schulich School of Law
Dalhousie University
sara.seck@dal.ca

Chris Tollefson
Professor of Law
Faculty of Law
University of Victoria
ctollef@uvic.ca