

## Chapter 6: Ocean Management

### Part 6.1 Definitions

#### 6.1.1 In this chapter:

"Marine Protected Area Agreement" means an agreement referred to in section 6.4.5 or 6.4.6;

"Ocean Areas Adjacent to the Zone" means those waters lying eastward of the Zone that are bounded to the south by latitude 54° north and extending, at any point, as far as the outer edge of the continental margin or a distance of 200 nautical miles from the baselines from which the breadth of the territorial sea of Canada is measured, whichever is greater;

"Petroleum Development Plan" means a plan submitted under subsection 139(2) of the *Canada-Newfoundland Atlantic Accord Implementation Act* and subsection 135(2) of the *Canada-Newfoundland and Labrador Atlantic Accord Implementation Newfoundland and Labrador Act* for the purpose of obtaining approval of the general approach of developing a pool or field as proposed in the plan; and

"Regulator" means Canada, the Province or other regulator having jurisdiction or authority with respect to a matter, including the Canada-Newfoundland Offshore Petroleum Board.

### Part 6.2 General

#### 6.2.1 This chapter shall be interpreted in a manner consistent with:

- (a) Canada's sovereignty, sovereign rights, jurisdiction and international obligations; and
- (b) the Province's jurisdiction in the Labrador Inuit Settlement Area.

#### 6.2.2 This chapter does not apply to a National Park, National Park Reserve, National Marine Conservation Area, National Marine Conservation Area Reserve or Protected Area.

### Part 6.3 Ocean Management

#### 6.3.1 Before finalizing a strategy for the management of estuarine, coastal and marine areas that would directly apply to the estuarine, coastal and marine areas of the Labrador Inuit Settlement Area, the Minister shall Consult the Nunatsiavut Government with respect to the strategy.

- 6.3.2 The Minister shall Consult the Nunatsiavut Government in the development and implementation of plans for the integrated management of activities or measures that directly affect the estuarine, coastal and marine areas of the Labrador Inuit Settlement Area.
- 6.3.3 The Consultation referred to in section 6.3.2 shall include Consultation about:
- (a) the establishment of, and possible Inuit participation in, advisory or management bodies; and
  - (b) the establishment of environmental guidelines, objectives and criteria respecting the quality of the estuarine, coastal and marine areas of the Labrador Inuit Settlement Area.

**Part 6.4 Marine Protected Areas**

- 6.4.1 If the Minister proposes to develop a system of Marine Protected Areas, the Minister shall Consult the Nunatsiavut Government to the extent that the system applies to the estuarine, coastal and marine areas of the Labrador Inuit Settlement Area.
- 6.4.2 The Minister shall Consult the Nunatsiavut Government prior to establishing, disestablishing or changing the boundaries of a Marine Protected Area in the Zone.
- 6.4.3 Nothing in this part prevents the Nunatsiavut Government from recommending to the Minister:
- (a) the establishment of Marine Protected Areas in the Zone; and
  - (b) terms and conditions relating to management plans for Marine Protected Areas in the Zone.
- 6.4.4 The Minister shall accept, vary or reject a recommendation made under section 6.4.3 and, in the case of a rejection or variance, shall provide the Nunatsiavut Government with the reasons for the decision in writing.
- 6.4.5 Prior to the establishment of a Marine Protected Area in the Zone, Canada and the Nunatsiavut Government shall, unless otherwise agreed between them, negotiate a Marine Protected Area agreement.
- 6.4.6 If Canada and the Nunatsiavut Government cannot conclude an agreement referred to in section 6.4.5 within 180 clear days from the commencement of negotiations for that purpose, or any other time agreed to by them, they shall select a conciliator who shall submit a report to them for consideration. If Canada and the Nunatsiavut Government cannot agree on the selection of the conciliator, the Minister may select the conciliator. If Canada and the Nunatsiavut Government cannot agree following conciliation, each party shall, within 60 clear days from the conclusion

of the conciliation proceedings, submit a report to the Minister for the Minister's consideration and decision on the terms of the agreement.

- 6.4.7 A Marine Protected Area Agreement may include any matter connected with a Marine Protected Area, including those matters identified in schedule 6-A.
- 6.4.8 A Marine Protected Area Agreement:
- (a) shall not form part of the Agreement; and
  - (b) is not intended to be a treaty or land claims agreement and is not intended to recognize or affirm aboriginal or treaty rights within the meaning of sections 25 and 35 of the *Constitution Act, 1982*.
- 6.4.9 In the event of an emergency, the Minister may establish, disestablish or change the boundaries of a Marine Protected Area in the Zone without first following the process set out in sections 6.4.2, 6.4.5 and 6.4.6. The Minister shall advise the Nunatsiavut Government as soon as practicable after doing so.
- 6.4.10 Federal publications informing the public about Marine Protected Areas in the Zone must be made available in Inuktitut.

## **Part 6.5 Marine Shipping**

- 6.5.1 The Minister shall Consult the Nunatsiavut Government prior to:
- (a) the establishment by the Minister of marine navigation services in the Zone; and
  - (b) the issuance of approvals or exemptions under the *Navigable Waters Protection Act* in the Zone.
- 6.5.2 Section 6.5.1 does not apply in the event of an emergency.

## **Part 6.6 Development and Exploration**

- 6.6.1 Canada and the Province shall Consult the Nunatsiavut Government prior to permitting, approving or authorizing a Development of Minerals in the Zone, including any marine transportation in the Zone directly associated with the Development. The Consultation shall take into consideration Inuit rights in the Zone under the Agreement and that Inuit resident in the Labrador Inuit Settlement Area are adjacent to the Zone.
- 6.6.2 The Nunatsiavut Government may make recommendations to the Minister regarding the potential impact on the integrity of landfast sea ice of a Development or Petroleum Exploration in the Labrador Inuit Settlement Area, including any

marine transportation in the Zone directly associated with the Development or Petroleum Exploration.

- 6.6.3 A Regulator shall Consult the Nunatsiavut Government prior to:
- (a) making a decision to open any part of the Zone to Petroleum Exploration or making a decision to issue Petroleum interests within the Zone;
  - (b) issuing rights in relation to tidal energy within the Zone;
  - (c) making a decision to permit, license or grant the right to construct, operate or abandon a pipeline in the Zone;
  - (d) deciding not to conduct a public review or a public hearing in relation to a potential Petroleum Development or tidal energy project in the Zone;
  - (e) establishing terms of reference or a timetable for the public review of a Petroleum Development, including a Petroleum Development Plan, in the Zone;
  - (f) establishing terms of reference, requirements or guidelines for preparation of a preliminary development plan, environmental issue list, environmental impact statement, socio-economic impact statement or any other plan or statement in relation to a Petroleum Development in the Zone; or
  - (g) making a decision whether to approve a Petroleum Development Plan in the Zone.
- 6.6.4 Notwithstanding the definition of Consult, the obligation to Consult referred to in section 6.6.3 shall be carried out within:
- (a) any applicable timetable prescribed by the *Canada-Newfoundland Atlantic Accord Implementation Act* and the *Canada-Newfoundland and Labrador Atlantic Accord Implementation Newfoundland and Labrador Act*; or
  - (b) any timetable that applies to a matter referred to in section 6.6.3 under a Law of General Application and that is applicable to federal and Provincial government departments or agencies.
- 6.6.5 For greater certainty, the Nunatsiavut Government shall have the full period of time available under the applicable timetable referred to in section 6.6.4 for Consultation.
- 6.6.6 A Regulator shall notify the Nunatsiavut Government in writing about any permit, approval or authorization that it proposes to issue for:
- (a) a Petroleum Exploration program in the Zone; or

- (b) a Development of Minerals or a Petroleum Exploration program in Ocean Areas Adjacent to the Zone,

and the Nunatsiavut Government may make recommendations to the Regulator with respect to the proposed permit, approval or authorization.

6.6.7 The recommendations of the Nunatsiavut Government referred to in section 6.6.6 shall be made within:

- (a) any applicable timetable prescribed by the *Canada-Newfoundland Atlantic Accord Implementation Act* and the *Canada-Newfoundland and Labrador Atlantic Accord Implementation Newfoundland and Labrador Act*; or
- (b) any timetable that applies to a matter referred to in section 6.6.6 under a Law of General Application and that is applicable to federal and Provincial Government departments or agencies.

6.6.8 Where any individual is to be nominated or appointed for the purpose of conducting a public hearing in relation to a potential Petroleum Development in the Zone, the Regulator shall Consult the Nunatsiavut Government prior to making the nomination or appointment. Nothing in this section derogates from chapter 11.

6.6.9 The Canada-Newfoundland Offshore Petroleum Board may, in the exercise of a power or the performance of a duty, Consult the Nunatsiavut Government in relation to:

- (a) Environmental protection and regulation in the Zone;
- (b) emergency measures in the Zone;
- (c) marine transportation in the Zone; and
- (d) other matters that are appropriate in relation to the Zone.

6.6.10 When Petroleum Exploration or Petroleum Development is being carried out in the Zone, each of Canada and the Province shall appoint a representative of the Nunatsiavut Government to the committee responsible for reviewing and monitoring implementation of the oil pollution and fisheries compensation regime under the *Canada-Newfoundland Atlantic Accord Implementation Act* and the *Canada-Newfoundland and Labrador Atlantic Accord Implementation Newfoundland and Labrador Act*, should such a committee be established. If such a committee is not established at any time when Petroleum Exploration or Petroleum Development is being carried out in the Zone, Canada and the Province shall Consult the Nunatsiavut Government about the implementation of the oil pollution and fisheries compensation regime under the *Canada-Newfoundland Atlantic Accord Implementation Act* and the *Canada-Newfoundland and Labrador Atlantic Accord Implementation Newfoundland and Labrador Act*.

- 6.6.11 Canada and the Province shall Consult the Nunatsiavut Government prior to establishing an oil pollution and fisheries compensation regime for Petroleum Exploration or Petroleum Development in the Zone other than the oil pollution and fisheries compensation regime established under the *Canada-Newfoundland Atlantic Accord Implementation Act* and the *Canada-Newfoundland and Labrador Atlantic Accord Implementation Newfoundland and Labrador Act*.
- 6.6.12 The Environmental Studies Management Board under the *Canada Petroleum Resources Act* shall Consult the Nunatsiavut Government prior to approving any environmental and social studies pertaining to Petroleum Exploration or Petroleum Development in the Zone.
- 6.6.13 The Nunatsiavut Government may propose environmental and social studies pertaining to Petroleum Exploration or Petroleum Development in the Labrador Inuit Settlement Area for funding under the *Canada Petroleum Resources Act*.

#### **Part 6.7 Inuit Impacts and Benefits Agreements in the Zone**

- 6.7.1 Subject to sections 6.7.11, 6.7.12 and 6.7.13, no Major Development, or any part, phase or stage of a Major Development, including any marine transportation in the Zone directly associated with the Major Development, may commence in the Zone until an agreement has been concluded between the Developer and the Nunatsiavut Government in accordance with this part or, in circumstances referred to in section 6.7.8, 6.7.9, 6.7.10 or 6.7.13, has been established for them by an Arbitration Panel in accordance with this part.
- 6.7.2 A Developer of a Major Development in the Zone is subject to chapter 14 unless the Nunatsiavut Government agrees otherwise in an Inuit Impacts and Benefits Agreement.
- 6.7.3 An Inuit Impacts and Benefits Agreement may provide for any matter connected with a Major Development in the Zone, including any marine transportation in the Zone directly associated with the Major Development, that could have a detrimental impact on Inuit or that could reasonably confer a benefit on Inuit, including any matter identified in schedule 6-B.
- 6.7.4 The negotiation of an Inuit Impacts and Benefits Agreement shall be guided by the following principles:
- (a) the benefits shall be consistent with and promote Inuit cultural goals;
  - (b) the nature and extent of the benefits shall be related to the nature, scale and cost of the Major Development;
  - (c) the benefits shall not place an excessive burden on the Developer or undermine the viability of the Major Development;

- (d) any negative impacts on the Environment, Inuit and Inuit rights under the Agreement shall be avoided, mitigated or compensated in a manner consistent with the nature, scale and cost of the Major Development; and
- (e) the Inuit Impacts and Benefits Agreement shall give priorities to Inuit but shall not preclude other residents adjacent to the Zone from obtaining benefits from the Major Development.

6.7.5 A Developer who proposes a Major Development in the Zone shall:

- (a) give written notice of the proposed Major Development to the Nunatsiavut Government at the earliest reasonable opportunity;
- (b) start the negotiation of an Inuit Impacts and Benefits Agreement with the Nunatsiavut Government in respect of the proposed Major Development at the earliest reasonable opportunity and, in any event, start the negotiation of an Inuit Impacts and Benefits Agreement with the Nunatsiavut Government in respect of the proposed Major Development upon receipt of written notice to do so from the Nunatsiavut Government; and
- (c) make efforts to conclude an Inuit Impacts and Benefits Agreement with the Nunatsiavut Government at the earliest reasonable opportunity.

6.7.6 An Inuit Impacts and Benefits Agreement shall be a contract.

6.7.7 If a Developer has not concluded an Inuit Impacts and Benefits Agreement with the Nunatsiavut Government with respect to a Major Development in the Zone at the time when a permit or authorization is issued with respect to the Major Development, the permit or authorization may be issued subject to the condition that it is of no force or effect, and that no Construction of the Major Development may commence, until the conclusion of an Inuit Impacts and Benefits Agreement or, subject to section 6.7.11, the expiry of the arbitration period referred to in section 6.7.8.

6.7.8 If an Inuit Impacts and Benefits Agreement has not been concluded by the Nunatsiavut Government and a Developer within 90 clear days from the date of the last permit or authorization required for the Major Development in the Zone to commence, the Nunatsiavut Government, the Developer or the Minister may refer any unresolved issue relating to the content, terms or conditions of the Inuit Impacts and Benefits Agreement to arbitration under chapter 21 and the Arbitration Decision shall be made within 90 clear days from the date of referral.

6.7.9 Nothing in this part prevents or is to be construed as preventing the Nunatsiavut Government and a Developer of a Major Development in the Zone from referring any or all questions relating to the content, terms or conditions of an Inuit Impacts and Benefits Agreement to arbitration under chapter 21 and, in that event and if section 6.7.7 applies, the Arbitration Decision shall be made within the arbitration period referred to in section 6.7.8.

- 6.7.10 Notwithstanding section 6.7.8, in the circumstances referred to in section 6.7.7, if a Developer of a Major Development in the Zone or the Nunatsiavut Government considers that the other party is not negotiating in good faith within the first 90 clear days from the date of the last permit or authorization required for the Major Development to commence, that party may immediately refer any unresolved issue relating to the content, terms or conditions of the Inuit Impacts and Benefits Agreement to arbitration under chapter 21 and the Arbitration Decision shall be made within the arbitration period referred to in section 6.7.8.
- 6.7.11 If an Inuit Impacts and Benefits Agreement has not been concluded by the Nunatsiavut Government and a Developer within 90 clear days from the date of the last permit or authorization required for the Major Development in the Zone to commence and a reference to arbitration has been made under section 6.7.8 but the Minister reasonably believes that the arbitration period referred to in section 6.7.8 would jeopardize the Major Development, the Minister may, subject to section 6.7.14, authorize Construction to commence if the Developer has obtained all necessary approvals. The Minister shall give written notice to the Arbitration Panel and the Nunatsiavut Government of an authorization under this section.
- 6.7.12 The Developer and the Nunatsiavut Government may agree that an Inuit Impacts and Benefits Agreement is not required for a Major Development in the Zone.
- 6.7.13 If the Governor in Council declares a military or national emergency, a Major Development in the Zone that, in the sole discretion of the Minister, is declared to be connected to the military or national emergency may commence prior to the conclusion of an Inuit Impacts and Benefits Agreement, but an Inuit Impacts and Benefits Agreement shall be negotiated between the Developer and the Nunatsiavut Government and, if an Inuit Impacts and Benefits Agreement has not been concluded within 90 clear days from the start of Construction of the Major Development, either the Developer or the Nunatsiavut Government may refer any unresolved issue relating to the content, terms or conditions of the Inuit Impacts and Benefits Agreement to arbitration under chapter 21.
- 6.7.14 If, under section 6.7.11 or 6.7.13, a Major Development in the Zone commences prior to the conclusion of an Inuit Impacts and Benefits Agreement, an Arbitration Panel shall ensure that benefits received by Inuit under the Arbitration Decision include compensation, which may be in the form of replacement benefits, for the benefits lost through commencement of the Major Development prior to the conclusion of the Inuit Impacts and Benefits Agreement.
- 6.7.15 A Developer may not split a Major Development in the Zone into parts, phases or stages for purposes of avoiding the application of section 6.7.1.
- 6.7.16 If a court of competent jurisdiction is satisfied on the balance of probabilities that a Developer has split a Major Development in the Zone into parts, phases or stages for purposes of avoiding the application of section 6.7.1, the court may, upon application of the Nunatsiavut Government, enjoin the Developer from commencing or from continuing to operate. Nothing in this section prevents a



court from making any other order or award in respect of an application by the Nunatsiavut Government.

**Part 6.8 Ports and Harbours in the Labrador Inuit Settlement Area**

6.8.1 Canada shall Consult the Nunatsiavut Government:

- (a) prior to establishing a port authority or harbour commission in the Labrador Inuit Settlement Area;
- (b) prior to designating or repealing a designation of a public harbour, public port or public port facility in the Labrador Inuit Settlement Area; and
- (c) prior to entering an agreement with any Person other than a division of the Government of Canada in respect of the management of a public harbour, public port or public port facility in the Labrador Inuit Settlement Area.

6.8.2 If a port authority or harbour commission is established in respect of a port or harbour in the Labrador Inuit Settlement Area, the Nunatsiavut Government may nominate one individual for appointment to the authority or commission, as the case may be, and Inuit Community Governments shall have the same powers and functions as other municipal governments in Canada pertaining to the establishment of port authorities and harbour commissions.

6.8.3 The Nunatsiavut Government may nominate one individual for appointment to any body, other than a division of the Government of Canada, charged with responsibility for the management of a public harbour, public port or public port facility in Labrador Inuit Lands or an Inuit Community.

**Schedule 6-A: Matters Appropriate for Negotiation and Inclusion in a Marine Protected Area Agreement (section 6.4.7)**

1. Establishment of conservation objectives for the Marine Protected Areas.
2. Management and regulatory measures required to meet the conservation objectives.
3. Monitoring to determine if the conservation objectives are being met.
4. Any effects of the Marine Protected Area on Inuit uses of that area.
5. Contracting or employment opportunities, such as enforcement, research and monitoring, that may be the result of the establishment of the Marine Protected Area.

**Schedule 6-B: Matters Appropriate for Negotiation and Inclusion in an Inuit Impacts and Benefits Agreement (section 6.7.3)**

1. Preferential employment and training of Inuit.
2. Inuit involvement in management and operation of the Major Development.
3. Joint venture arrangements or other business arrangements between Inuit Businesses and the Developer.
4. Inuit participation in the corporation carrying out the Major Development.
5. Income sharing arrangements between the Developer and Inuit.
6. Employment conditions that are consistent with Inuit values and culture.
7. Language in the work place.
8. Research.
9. Scholarships.
10. Relationships with unions.
11. Compensation.
12. Performance bonds.
13. Special concerns relating to Environmental protection, Harvesting by Inuit, Fish, Fish Habitat, Aquatic Plants, Wildlife and Habitat and any disruption to the Environment, Harvesting by Inuit, Fish, Fish Habitat, Aquatic Plants, Wildlife and Habitat.
14. Inuit social and cultural protection, including protection of Archaeological Material and Archaeological Sites.
15. Environmental rehabilitation.
16. Monitoring, including short term and long term monitoring, of the Major Development.
17. Special arrangements for Inuit participation in contracting.
18. Implementing and enforcing the Inuit Impacts and Benefits Agreement.
19. Resolution of disputes.
20. Use by Inuit of infrastructures and facilities related to the Major Development.

21. Marine transportation in the Zone directly associated with the Major Development.
22. Any other matters that the Nunatsiavut Government and the Developer consider to be relevant to the needs of the Major Development and those of Inuit.