

**COMMISSIONER'S TERMS OF REFERENCE
FOR
THE PROPOSED HEBRON PROJECT
PUBLIC REVIEW**

1. Definitions

In these Terms of Reference,

"Accord Acts" means the *Canada-Newfoundland Atlantic Accord Implementation Act* and the *Canada-Newfoundland and Labrador Atlantic Accord Implementation Newfoundland and Labrador Act*;

"Benefit Plan Guidelines", means the Benefit Plan Guidelines dated 2006 as published by the Board and available at the Board's website (www.cnlopb.nl.ca) under "Legislation and Guidelines".

"Board" means The Canada-Newfoundland and Labrador Offshore Petroleum Board;

"Canada-Newfoundland and Labrador Benefits Plan" has the meaning set out in section 45 of the Accord Acts;

"Commissioner" means the individual appointed pursuant to para. 44(2)(b) of the Accord Acts;

"Development Application" means all documentation provided to the Board by the Proponent for the purpose of para. 44 (2)(c) of the Accord Acts, to support approval of the Project

"Development Plan Guidelines" means the Development Plan Guidelines dated 2006 as published by the Board and available at the Board's website (www.cnlopb.nl.com) under "Legislation and Guidelines"; "development plan" has the meaning set out in section 2 of the Accord Acts;

"Participant" means a person other than the Proponent, who makes an oral presentation or files a written submission to the Commissioner pursuant to the Procedures for Public Review;

"Procedures for Public Review" means the procedures as may be implemented by the Commissioner;

"Project" means the proposed development of the Hebron oil field;

"Proponent" means ExxonMobil Canada Ltd.;

"Secretariat" means the Commissioner's support staff obtained pursuant to Paragraph 13;

2. General

Subject to the requirements of these Terms of Reference and the Accord Acts, the Commissioner will conduct a review of the Development Application which will include:

- a. considerations of human safety and environmental protection* incorporated into the proposed design and operation of the Project;
- b. the general approach to the proposed and potential development and exploitation of the petroleum resources within the Hebron Significant Discovery Area; and
- c. the resulting benefits that are expected to accrue to the Province of Newfoundland and Labrador and to Canada, having particular regard to the requirements for a Canada-Newfoundland and Labrador Benefits Plan.

3. Scope of the Review

The Commissioner shall include in his review a consideration of the matters dealt with in the Development Plan Guidelines and the Benefits Plan Guidelines.

4. Limitation

The Commissioner's mandate shall not include an examination of questions of energy policy, jurisdiction, the fiscal or royalty regime of governments, the division of revenues between the Government of Canada and the Government of Newfoundland and Labrador, or matters which go beyond the potential or proposed development of the Hebron Significant Discovery Area.

5. Public Participation

The Commissioner shall conduct the public review sessions in a manner which shall promote and facilitate public participation.

6. Conduct of the Review

The Procedures for Public Review implemented by the Commissioner will be generally consistent with the Development Plan Guidelines and the Benefits Plan Guidelines.

7. Consultation by Commissioner with Board

The Commissioner, the Secretariat, or both may consult the Board for the purposes of clarifying any matters respecting these Terms of Reference or the review process for the Development Application. In no event shall the Commissioner or Secretariat consult the Board for the purposes of discussing any substantive matters or merits respecting the Development Application or Project.

*drafting error corrected 13 September 2011

8. Referral of Documentation to Commissioner

Following the Board's determination that the documentation contained in the Development Application is complete for public review, the Board shall refer the documentation to the Commissioner for public review. As soon as practicable thereafter, the Commissioner shall issue a general notice to the public containing or attaching the following information:

- a. the approximate dates during which the public sessions are expected to take place. (At least 60 days notice will be provided between the date of such notice and the commencement of public sessions);
- b. the Terms of Reference and the Procedures for Public Review; and
- c. relevant information respecting how interested parties may obtain a copy of the Development Application or further information.

9. Request for Additional Information

The following guidance is provided respecting any requirement to obtain information additional to the Development Application documentation filed under paragraph 8 above:

- a. following the referral of the Development Application to the Commissioner, the Commissioner may request any further information from the Proponent which the Commissioner considers necessary for the conduct of the public review, including but not limited to:
 - i. information relevant to the Project;
 - ii. existing technical, environmental or other information relevant to the review;
 - iii. supplementary information including a description of any Proponent-initiated public consultation program, its nature and scope, issues identified, commitments made and outstanding issues; and
 - iv. any proposed work plans, terms of reference or guidelines relating to the Proponent's preparation of its Development Application;

Such additional information gathered for the above purposes will be referred to as "Supplementary Information";

- b. The Commissioner shall ensure that subject to any disclosure restrictions under law, the information provided under the Development Application and the Supplementary Information is made available for public examination;
- c. Following the general notice of public sessions referred to in paragraph 8, but prior to announcing a detailed schedule for public sessions under paragraph 11, the Commissioner will request public comment to determine whether additional information should be provided before convening the public sessions. The time period for receipt of comments shall not exceed thirty (30) days. In consideration of any comments which are received, the Commissioner may request additional information from the Proponent having particular regard for its relevance, material value and reasonableness. Any request

for additional information shall be issued no later than fifteen (15) days following the expiry of the thirty (30) day period for comment referred to above;

- d. Once the notice for public review sessions have been given and any Participant makes or files a submission pursuant to the Procedures for Public Review, the Commissioner may also request any additional information from any Participant, which in the Commissioner's opinion is relevant.

10. Location of Sessions

The Commissioner will hold the sessions in St. John's and in other locations as may be determined by the Commissioner.

11. Announcement and Completion of Sessions

The Commissioner will provide notice of the detailed schedule and announce specific dates and locations of the public review sessions respecting the Project once the Commissioner is satisfied with the information provided. This notice will be issued a minimum of thirty (30) days prior to the start of the sessions.

12. Reporting

The Commissioner will prepare and submit to the Board, to the federal Minister of Natural Resources and to the provincial Minister of Natural Resources, having particular regard for the matters considered under the Development Plan Guidelines and Benefits Plan Guidelines, a report on its review of the Project, including:

- a. comments which are received from the public; and
- b. the Commissioner's recommendations.

The report shall be submitted at the earliest possible date but in no event later than one hundred and eighty (180) days following receipt of the information referred to in paragraph 8.

13. Support Staff for Commissioner

The Commissioner may obtain and as needed, request the services of support staff including independent specialists or professionals whose functions would be to provide information on and help interpret information and issues relevant to the public review. The names of any such persons retained by the Commissioner will be made public. Specialists hired by the Commissioner may be requested to appear before the Commissioner. Other support services may also be obtained with respect to any logistical and administrative functions which need to be performed.

14. Powers of the Commissioner

The Commissioner shall be vested with the same powers conferred by the Government of Newfoundland and Labrador to any commissioner appointed pursuant to the *Public Inquiries Act, 2006 and the Inquiries Act*.