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VIA EMAIL

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To Whom It May Concern:

Cameco Corporation's Comments on the Draft Terms of Reference for the Expert Panel's Review of the Federal Environmental Assessment Processes

On June 20, 2016, the Government of Canada initiated a review of the federal environmental assessment (EA) processes. As part of this, the Minister of Environment and Climate Change is establishing an Expert Panel to review federal environmental assessment processes associated with the *Canadian Environmental Assessment Act, 2012* (CEAA 2012). The Expert Panel will engage broadly with Canadians, Indigenous groups and key stakeholders to develop recommendations to the Minister of Environment and Climate Change on the environmental assessment processes.

Cameco Corporation (Cameco) has prepared the following comments on the draft Terms of Reference for the Expert Panel for your consideration. For ease of reference, we have provided background information on Cameco followed by our specific comments on the Expert Panel's mandate, timelines and procedures.

We wanted to start by emphasizing that Cameco's commitment to environmental protection is defined in our safety, health, environment and quality policy. Cameco recognizes protection of the environment among our highest corporate priorities during all stages of our business activities. As such, protection of the environment is one of our four measures of success. Cameco strives to be a leading performer in the areas of safety culture, environmental leadership and operational excellence. Cameco is committed to preventing pollution and continually improving overall performance.

We also wanted to emphasize that Cameco values having supportive communities. As evidence of this, the support of communities is also one of our four measures of success, and, as such, it plays a key role in all of our decision-making activities. As part of our effort to sustain and enhance the support of our communities, we conduct ongoing community engagement activities

at all of our operations. We have been successfully engaging Indigenous peoples in northern Saskatchewan for many years through models, such as our Athabasca Working Group established in 1999 and the province of Saskatchewan's Environmental Quality Committee.

Cameco is committed to working with, learning from, and ensuring prosperity for Indigenous communities. As part of our efforts to sustain and enhance relationships with Indigenous people, we conduct ongoing community engagement activities at all of our operations and for any proposed new projects through the EA process. We are honoured to have been recognized as a leader in Indigenous engagement and are one of the only mining companies to receive four gold certifications from the Canadian Council for Aboriginal Business for Progressive Aboriginal Relations. We are also proud to be the largest industrial employer of Indigenous people in Canada.

Further, we have been the project proponents on multiple federal and multijurisdictional environmental assessments. As a result of this experience, we have also been actively involved with proposals to reform the *Canadian Environmental Assessment Act* for more than a decade. Cameco has participated with industry associations and made submissions for reform and have spoken to these proposals in front of those reviewing the legislation. In doing so, we have not advocated for changes that would lower environmental standards or remove any area of industrial activity from regulatory scrutiny; our proposals are simply intended to promote science-based decision making and improve the efficiency, timeliness and predictability of the EA process.

Given Cameco's EA experience, our commitment to environmental protection, and our recognized role as an industry leader in Indigenous engagement, we believe our feedback will be relevant and useful when finalizing the draft Terms of Reference for the Expert Review Panel's review of EA processes.

Expert Panel's Mandate

Focus on Projects

The environmental assessment process is intended to serve as a planning tool for projects, not to constitute the last regulatory word on a development. Ideally, it is to be engaged as early as possible in the project development process so that decisions are made with the best possible information.

In reality, the EA process was extended to regulatory decisions made after a project was approved for minor and administrative changes within the permitting or licensing conditions granted for the project and for environmental effects fully regulated by provincial and federal environmental legislation. In Cameco's case, the Nuclear Safety and Control Act provides for a specialized regulator with an environmental protection mandate that undertakes environmental risk assessment as part of its decision-making process for changes covered under an existing licence.

This misapplication of the EA process led to lengthy process delays for what were essentially administrative decisions. We believe that the EA process needs to focus on new projects to avoid jurisdictional and administrative duplication and to recognize the oversight and involvement of

the best-placed regulators to use more appropriate regulatory tools to support other decisions.

Provincial role in EA Process

The Terms of Reference do not include any analysis of the potential for overlap with provincial or other federal legislation and does not discuss whether any consultation processes have been undertaken. The Expert Panel's mandate should include consideration of how the federal EA process interacts with, complements, duplicates and/or differs from the provincial EA processes.

One way to meet this commitment is to add provincial representatives to the multi-interest advisory committee.

Application of BATEA

The Terms of Reference state that a new EA process will require project proponents to choose the 'best available technology' (BAT) without regard to costs and benefits and without balancing all relevant interests in the decision-making process. In particular, it is in conflict with the principles of sustainable development codified in s. 4(h) of CEAA 2012 and described in s. 5 of *Federal Sustainable Development Act* as including "the need to integrate environmental, economic and social factors in the making of all decisions by government." A small environmental benefit achieved by a particular technology may be at significant cost to economic and social interests and is not sustainable.

In addition, there is no one measure of "BAT" – a technology that performs efficiently in one climate or in one industry may perform less well in another. It may not be technically or economically possible for a project proponent to evaluate all technologies and ensuring adequate protection of human health and the environment does not require it.

The draft Terms of Reference must be modified to read "best available technology that is economically achievable."

Indigenous Engagement and Consultation

In the *Scope of Review* section, we note the Panel is to consider the relationship between environmental assessment processes and the Aboriginal and treaty rights of Indigenous peoples and reflect the principles outlined in the United Nations Declaration on the Rights of Indigenous Peoples. Any revisions suggested by the Panel to practices and procedures associated with the conduct of environmental assessments must continue to be compatible with Canada's Constitutional and legal framework. Any international commitments must be interpreted flexibly and not create new rights. The focus of the Panel in this regard should be to use the existing legal framework to find more opportunities for meaningful engagement and participation by Indigenous peoples in the environmental assessment process.

Further, bullet 5 in the *Scope of Review* section stipulates that legislative amendments are required. Part of the Minister of Indigenous and Northern Affairs' mandate is to examine "[h]ow to ensure that environmental assessment legislation is amended to enhance the consultation, engagement and participatory capacity of Indigenous groups in reviewing and monitoring major resource development projects" [emphasis added]. As written, it appears that the Terms of Reference have predetermined that amendments to legislation are required. We believe that the Expert Panel should be open to the possibility that any potential gap may be on the process or implementation side, rather than the legislative side.

The focus of the Crown's duty to consult is with local Indigenous peoples and organizations and not national Indigenous organizations. As such, it is unclear why the Expert Panel would meet with the leadership of National and/or Provincial Indigenous Organizations to prepare an Indigenous Engagement Plan. Cameco recommends that the final Terms of Reference reflect engagement that aligns with the Crown's duty to consult and the development of the Indigenous Engagement Plan should be focused on local First Nations, Métis and Inuit communities who currently participate in all aspects of resource development.

Expert Panel's Timelines

Six months is a short timeframe for meaningful engagement, consultation, and input from the public, Indigenous groups, the multi-interest advisory committee, and experts on a complex topic such as the federal EA process. We suggest the date of the final report submission be extended beyond January 31, 2017 to support a successful review process. However, we also encourage the government to have EA review processes that are underway continue rather than stall while awaiting the outcome of this process.

Expert Panel's Procedures

Scientific Rigour

The Panel should not predetermine the outcome of the review. Rather, the panel should base their EA review report on science, facts, and evidence gathered during engagement and consultation along with input from the multi-interest advisory committee. The same rigour expected in the EA process should be applied to the panel and reflected in their Terms of Reference. As drafted, it appears the terms of reference have predetermined the outcome of the review. For example, the current wording in bullet 1 in *Scope of Review* "...restore robust oversight..." implies that robust oversight has been lost.

Draft and Final EA Review Reports

We suggest the final Terms of Reference include issuance of a draft EA review report followed by a 60 day public commenting period. In addition, the draft and final EA review reports should include the panel's responses to any comments received.

Communication

Although the Terms of Reference outline a comprehensive approach to engagement and consultation, we were disappointed to note that the information on the review itself is not readily available on the Government of Canada's website. For example, the review of the draft Terms of Reference is not included on the Government's current consultations calendar (<http://www1.canada.ca/consultingcanadians/currentconsultationsbycalendar>). Similarly, information on the federal EA process review is contained on various webpages (e.g. Canadian Environmental Assessment Agency, Environment and Climate Change Canada, Natural Resources Canada), which are not linked together. We suggest the Terms of Reference include a clear process and a dedicated webpage for the Expert Panel to communicate on the review process to ensure maximum public participation.

Summary

The EA process and decisions should be set in the context of the government's broader agenda. In this case, the government's commitment to improving the economic and social conditions of Indigenous peoples. One of the most direct ways for the government to achieve this goal is to see natural resource projects in Canada's north proceed where these projects have support of local communities and have undergone an EA process. Uncertainty around the EA process (including timing), the lack of science-based decision-making and clarity regarding ongoing operating conditions is reducing the opportunity for resource development. This review needs to consider this and any changes to the EA process need to reflect this.

We support a fair, unbiased, transparent, and thorough review of federal environmental assessment processes with meaningful input from informed stakeholders. However, based on our review of the Expert Panel's draft Terms of Reference, we are concerned that the conclusions of the review have been decided before the review process even begins. We expect the final Terms of Reference will reflect the level of open mindedness, rigour and appropriate timelines required for the Expert Panel to conduct an unbiased and thorough review.

We trust our feedback and comments will be of value as the draft Terms of Reference are finalized and the review of the EA process starts.

We look forward to additional opportunities to provide input as the review process proceeds. If you have any questions with respect to the above, then please contact the undersigned at (306) 956-6685 or liam_mooney@cameco.com.

Sincerely,
<Original signed by>

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