

Karen Costello, Executive Director

Nunavut Impact Review Board

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Dear Ms. Costello,

I am writing in response to the May 27, 2020, letter that Mark Ings sent to Yordanka Stoimenova seeking clarification of the application of the Convention on Environmental Impact Assessment in a Transboundary Context (the Espoo Convention) to the assessment of the Baffinland Iron Mines Corporation's Mary River Phase 2 Development Proposal (Mary River Phase 2 proposal) and the Board's responsibilities with regard to the fulfillment of Canada's obligations under the Espoo Convention. This letter is also further to the discussion held between the Impact Assessment Agency of Canada (the Agency) and the Nunavut Impact Review Board (the Board) on June 11, 2020.

As a party to the Espoo Convention, Canada is committed to preventing, reducing, and controlling significant adverse transboundary impacts of proposed activities within its borders. In accordance with the Espoo Convention, Canada has to ensure that activities that are likely to cause transboundary impacts undergo an environmental impact assessment; that any potentially affected Parties are notified in advance of the proposed activity; and that the public in the areas likely to be affected by the proposed activity is provided with the opportunity to participate in environmental impact assessment processes.

The Agency has the lead responsibility to ensure the implementation of and compliance with the Espoo Convention in Canada. The Agency serves as a Point of Contact for other Parties to the Espoo Convention and its secretariat.

Canada relies on the impact assessment regime set out in the *Impact Assessment Act (IAA)* and, where applicable, on northern environmental assessment regimes to fulfil its obligations under the Espoo Convention.

The Espoo Convention applies to the activities listed in Appendix I of the convention and any activities that are likely to cause significant adverse transboundary impacts. For those projects that are subject to a review under the *Nunavut Planning and Project Assessment Act (NUPPAA)*, and require a decision by a federal Minister, the Board and Crown-Indigenous Relations and Northern Affairs Canada are responsible for ensuring that Canada meets its obligations under the Espoo Convention.

Major mining, on-site extraction and processing of metal ores, as well as trading ports and ports for inland waterway traffic that permit the passage of vessels of over 1,350 tonnes, are among the activities listed under Appendix I. Some of the main activities in the Mary River Phase 2 proposal (related to port redevelopment, use of larger vessels, and the proposed shipping route) are included in Appendix I and are likely to cause transboundary impacts. The Government of Denmark has also communicated its view that there will be significant transboundary impacts and it has confirmed its interest in participating in the review of the project.

Based on this information, the Agency is of the view that the Espoo Convention applies to the Mary River Phase 2 proposal. In order to meet the requirements of the Espoo Convention, the Board should take the following next steps:

1. Send a letter to Government of Denmark with a clear description of:
 - The final scope of the Phase 2 proposed development, particularly the scope of activities that are likely to cause transboundary impacts in Greenland;
 - The likely significant adverse transboundary impacts, including impacts on marine mammals, accidents and malfunctions, invasive species, and any mitigation measures and alternatives being considered;
 - The current status and remaining steps of the EIA, including upcoming public consultation periods;
 - The options for providing comments, including participation in consultation sessions or submission of written comments;
 - A clear and reasonable timeline by which Government of Denmark should respond and provide comments.
2. Provide any new information on likely transboundary impacts of concern to the Government of Denmark as it becomes available, and consult the Government of Denmark on the significance of those impacts;
3. Consider in its Final Report comments received from the Government of Denmark and the outcome of consultations; and
4. Provide to the Government of Denmark the final Minister of Northern Affairs' decision, with reasons and considerations on which it was based, and determine with the Government of Denmark whether and to what extent monitoring programs are to be carried out.

The Agency remains open to providing additional clarification and support with regard to the application of the Espoo Convention, as required.

I would be happy to further discuss the requirements of the Espoo Convention should you have any questions.

Sincerely,

A handwritten signature in cursive script, appearing to read 'Tara Frezza'.

Tara Frezza
Director, Intergovernmental Affairs
Impact Assessment Agency of Canada