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June 30, 2022

Canada Energy Regulator
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To Whom It May Concern:

Re: Onshore Pipeline Regulations

On behalf of the Métis people of Lac Ste. Anne, I have enclosed our comments in relation to the Canada Energy Regulator's ("CER") review of the Onshore Pipeline Regulations ("OPR") and wish to commend the CER undertaking this important review of the OPR with involvement of Indigenous communities. CER regulated pipelines are a prominent industrial feature in our traditional territory and have both indirect, direct and cumulative impacts on the ability of Lac Ste. Anne Métis ("LSAM") community members to exercise our Métis harvesting rights. It is our experience that the management systems required under the current OPR neither effectively address these impacts nor ensure our concerns are addressed. While I write today to provide the CER with my community's initial comments and feedback on this important matter, I also wish to convey our strong interest in continuing to be part of the CER's reconciliation journey.

COMMENTS AND FEEDBACK ON OPR DISCUSSION GUIDE QUESTIONS

1. **What's working well in relation to the OPR, and its implementation, and what could be improved?**

The current OPR require companies to develop and audit management systems. These include: an emergency management program; an integrity management program; a safety management program; a security management program; an environmental protection program; and a damage protection program. There are significant gaps in the current management systems with respect to issues and impacts experienced by Indigenous persons and communities, as outlined below.

(a) **The current requirements are failing to ensure that Indigenous and Section 35 Rights are adequately protected and accommodated.** There is often an assumption that by protecting the environment, rights intimately connected with the environment, such as Métis harvesting rights, are also protected. The experience of LSAM members is that despite environmental mitigations and regulatory standards applied to pipeline development, their ability to exercise their Métis harvesting rights are affected. The need to consider, accommodate and protect Indigenous and Section 35 rights should be explicitly acknowledged in the Regulations.

(b) **The current requirements fail to ensure the safety and security of Indigenous persons, in particular Indigenous women and girls, youth and gender diverse individuals.**

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Indigenous communities have long expressed concerns, based on their experiences with pipeline development, about how pipeline development impacts the safety and security of their members. The Socioeconomic Subcommittee (SESC) of the Indigenous Advisory and Monitoring Committee for the Trans Mountain Expansion Project and Existing Pipeline (IAMC-TMX) submission to the House of Commons Standing Committee on the Status of Women highlights key socioeconomic issues and priorities identified by Indigenous communities related to the Trans Mountain Expansion Project (TEMP) (see Appendix A). These issues and priorities are relevant beyond TEMP and the OPR must address the lack of effective mechanisms to support community safety and ensure the security of individuals. Please refer to Appendix A for the full submission and recommendations.

(c) **The current requirements do not appropriately ensure long-term sustainable benefits flow to Indigenous communities as a result of pipeline development.** The Truth and Reconciliation Commission of Canada's Calls to Action call upon businesses to ensure equitable access to jobs, training and education opportunities and that Indigenous communities "gain long-term sustainable benefits" in relation to projects. The reality is that there are often significant barriers to Indigenous employment and contracting that constrain the realization of opportunities and benefits by Indigenous communities that are local to, and affected by, the pipeline. Barriers include such things as business and individual capacity, but also a disconnect between typical Human Resources policies and employer expectations that can lead to Indigenous employees being penalized or forced to choose between meeting employer expectations or their cultural and familial responsibilities. Additionally, companies who are required to self-report on Indigenous contracting and employment often overstate the value and benefit of the opportunity. It is also difficult, if not impossible, for Indigenous communities to be successful in obtaining the prime contract for pipeline development and training and education opportunities end once the pipeline is built. There are many communities and only so many business contracting opportunities – leading to competition amongst communities and also either watering down the total benefit any one community can receive, or, alternately, the greater benefit of one community at the expense of others. More needs to be done to support on-going and sustainable capacity development within Indigenous communities. Furthermore, economic reconciliation requires more than simply providing for short-term contracting opportunities. Long-term equity for affected communities provides an avenue for communities to benefit and transform those benefits into other economic and social investments. It is necessary to develop standards and metrics in collaboration with affected Indigenous communities, and to draw on the experiences and perspectives of the communities themselves in evaluating the company's performance with regard to Indigenous employment and contracting.

(d) **There is no requirement to involve Indigenous communities in the development and implementation of emergency response and incident management systems.** Current systems are not supporting prompt notification of Indigenous communities and even where notification occurs, the specific location of the incident may not be shared. As a result Indigenous land users and sites of importance to communities may be at risk. For example, recently LSAM was informed about an incident which occurred on an operating pipeline. The pipeline operator did not share the specific location due to safety concerns – i.e., the desire to limit the potential for community members to show up at the incident location. However, without the specific location it was not possible to check our database to determine proximity of land and resource use sites. Additionally, Indigenous communities may experience lingering

concerns about contamination of traditional resources resulting in changes to harvesting and land use. To address the shortcomings: Indigenous communities must be promptly notified; the proponent must request and consider any information about land and resource use and sites in the area that may be affected; indigenous communities must have an opportunity to visit the incident location; Indigenous communities must be provided with access to any reports and assessment results; the proponent must support the community in any further monitoring or contaminants testing that are necessary to provide assurance of the safety of traditional resources after the incident occurs; and, Indigenous communities must be provided with appropriate capacity funding in support of the above.

Overall, OPR requirements regarding management systems, policies and procedures need to be expanded to ensure that the social, economic, cultural, and health and well-being issues and concerns that are experienced by Indigenous communities and persons are explicitly and adequately recognized and managed. At minimum this should include:

- Requiring major projects to manage, track and report on Indigenous-specific information.

- Requiring pipeline companies to involve Indigenous communities who are impacted by the pipeline project in the development of, and reporting on, management systems specific to Indigenous issues and impacts.

- Ensuring affected and involved Indigenous communities are involved in audits of management systems.

2. **How can the OPR contribute to advancement of Reconciliation with Indigenous peoples?**

LSAM has been involved in the CER's Indigenous Monitoring Program and in the IAMC-TMX and applauds the CER's efforts to find ways of involving Indigenous peoples in the implementation of its mandate. In our involvement with the CER and CER-regulated pipelines, we have found that the lack of explicit requirements pertaining to Reconciliation as well as to the rights and well-being of Indigenous communities is a significant gap.

While the discussion paper recognizes the current OPR focus on management systems, and we have noted above some of the gaps in those management systems, we believe that the purpose of the OPR must be expanded to explicitly include the advancement of Reconciliation with Indigenous peoples. The current OPR state:

> **6** The purpose of these Regulations is to require and enable a company to design, construct, operate or abandon a pipeline in a manner that ensures
>
> - **(a)** the safety and security of persons;
> - **(b)** the safety and security of pipelines and abandoned pipelines; and
> - **(c)** the protection of property and the environment.

There is often an assumption that by protecting the environment, rights intimately connected with the environment, such as Métis harvesting rights, are also protected. The experience of LSAM members is that despite environmental mitigations and regulatory standards applied to pipeline development, their ability to exercise their Métis harvesting rights are affected. The need to consider,

accommodate and protect Indigenous and Section 35 rights should be explicitly acknowledged in the purpose section of the Regulations.

Flowing from that, Indigenous communities must be involved in the identification of standards and design and implementation (tracking and reporting on indicators/metrics) of management systems specific to the purpose of the OPR and taking into account the issues and impacts experienced by communities in relation to pipeline development: impacts to Indigenous and Section 35 Rights; socioeconomic impacts, including risks to community and individual health and well-being; and the need to ensure pipeline development supports sustainable economic development and the prosperity of indigenous communities.

3. **How can the OPR contribute to the protection of heritage resources on a pipeline right-of-way during construction, and operations and maintenance activities?**

In our experience, although companies may be conditioned to develop plans and protocols specific to heritage resources, gaps in provincial legislation and requirements influence those plans and protocols such that they are not adequate. In Alberta, the *Historical Resources Management Act*, governs historical resources including archaeological sites and materials, historic sites, and paleontological sites. Certain "Aboriginal Traditional Use" are also recognized by, and fall under the mandate of, the provincial Historical Resources Management Branch. The Branch tends to minimize the extent and significance of sites, as well as to lack consideration of the relationship of sites (and therefore, the identification of cultural landscapes). There is no Provincial regulatory requirement for proponents to notify Indigenous communities, much less consider their perspectives and views on the mitigation of impacts, in the case of a Chance Discovery of historical resources, unless the site is a recognized traditional use site. Furthermore, in our experience, the Proponent does not involve or consult with LSAM in the development of their mitigation approaches and contingency plans with respect to heritage resources. This is problematic because many sites have significance to Indigenous communities, despite the Province's lack of recognition of a relationship between the site and current communities. There is no active and participatory reconciliation of Historical Resources Impact Assessment findings with community specific Indigenous knowledge and land use studies – this can result in over management of issues (e.g., some sites referred to in separate studies may actually be the same site with more or less accuracy in identifying its location), or reification of "expert" archaeological knowledge over Indigenous Knowledge (e.g., not taking Indigenous perspectives into account on possible burial sites identified by project personnel during development).

For example, LSAM became aware, incidentally by reading through a monitoring report, of a possible burial identified by Indigenous monitors employed by the pipeline company through an Aboriginal participation program. The expert views of professional archaeologists were relied upon to make a determination that the feature was not, in fact, a burial; however, Indigenous knowledge was not called upon or considered in that assessment.

4. **How can the OPR contribute to the protection of traditional land and resource use, and sites of significance for Indigenous peoples on a pipeline right-of-way, during construction, and operations and maintenance activities?**

Proponents rely on environmental mitigation measures and regulatory standards to "address" impacts and concerns raised by Indigenous communities in their consultation and engagement on a particular project. The assumption is that impacts to traditional resources and sites will be addressed through standard mitigations for impacts to wildlife, vegetation, water and historical resources.

Often times such mitigations are not considered appropriate or ethical by Indigenous communities. For example, communities may consider avoidance of a salt lick the only appropriate solution, while the company may choose to disturb and reclaim the salt lick. There is also the assumption that impacts to traditional land and resource use will be short term and temporary. This assumption, which is not supported by the expert opinion of Indigenous communities and the lived experience of Indigenous community members. The CER does not have any type of long-term monitoring system that tests the accuracy of that assumption and the efficacy of mitigations meant to address impacts to traditional land and resource use.

The CER should work with Indigenous communities to develop standards for avoidance and mitigation of traditional land and resource use sites and other sites of significance, including archaeological sites. Additionally, the CER should work with Indigenous communities to develop an appropriate monitoring system that can evaluate the efficacy of mitigation measures and the accuracy of impact predictions, including by taking Indigenous experiences and perspectives into account in that evaluation.

5. How can the use of Indigenous Knowledge be addressed in the OPR?

The OPR should make clear the expectation that the proponent involves Indigenous communities and seeks their perspectives on the design and implementation of management systems. The CER itself should have Indigenous Knowledge experts involved in reviewing and determining the adequacy of the proponent's management systems, including the process by which the proponent worked with Indigenous communities on their development and implementation.

6. How can the OPR address the participation of Indigenous communities in pipeline oversight?

There is often a disconnect between issues that are identified during the assessment phase and the focus of inspections. Along with increasing the scope and breadth of management systems, the scope and breadth of inspections must be expanded to better address impacts and issues experienced by Indigenous communities in relation to a pipeline, including verification of the efficacy of management systems that relate to the safety and security of Indigenous persons, in particular women, girls, youth and gender diverse individuals. As such, inspection officers and Indigenous monitors involved in inspections, should engage affected Indigenous communities in some types of inspections, rather than relying solely on engagement with the pipeline proponent and its contractors. (Note: Having a community member on the inspection team is helpful but does not fulfill this intent.) There should be transparent and systematic reconciliation of inspection results with standards and management systems so that changes can be made where management systems are found to be ineffective. Additionally, while the Indigenous monitors programs are valuable, they are not sufficient to address gaps in pipeline oversight.

7. How can the OPR support collaborative interaction between companies and those who live and work near pipelines?

The OPR can require companies to involve affected Indigenous communities in pipeline planning and in the development and implementation of any management systems that pertain to the issues and impacts experienced by Indigenous communities. While the CER has guidance on information requirements for applications, companies are approaching communities too late in the planning process. The CER has to set expectations about companies entering into formal, longer term

relationships with communities that will facilitate earlier engagement on project plans, as well as ensuring capacity support and involvement throughout development and operations.

8. How could communication and engagement requirements in the OPR be improved?

As stated above, the OPR can set expectations on companies entering into formal relationships with communities that guide communication and engagement.

Additionally, although the CER requires companies to provide notice of filings to Indigenous communities and we do not think this should be discontinued, it cannot be assumed that this is sufficient to communicate information. It can be overwhelming to keep up with tracking and reviewing this correspondence and even more overwhelming to draft and file submissions where the community may have comments or concerns about a filing. It would be helpful to have regularly scheduled information sessions for each major project, and also to have an easy to use web-based tool to provide comments or concerns back to the company and the CER about the matter of any particular filing.

The CER website is difficult to navigate and requires too much searching through filings to find relevant information. Each CER-regulated company should be required to develop and maintain more useful and user-friendly websites with visual tools. For example, you should be able to see all of a company's pipelines and click on the one of interest to navigate to a project-specific webpage that provides all regulatory related information and filings, management plans, environmental protection plans, emergency response plans, incident reports, etc. in a user friendly way.

Additionally, the OPR should require mechanisms that help to validate the accuracy and completeness of a company's filings related to engagement. For example, prior to filing, the company should be required to provide the community with an opportunity to verify the record of engagement. The timelines for this process should be clearly spelled out.

9. How could the CER improve transparency through the OPR?

Ensure there are requirements for notification and involvement of Indigenous communities in the case of incidents and emergencies. Analytical reports related to contaminants testing and delineation, root cause reports and any other data and reports generated as a result of incident response should be made available to Indigenous communities.

All information generated in relation to a major project from the time of its application, through its development, operations and up to and including abandonment, decommissioning and final reclamation and monitoring should be accessible on-line via a project-specific website / webpage.

10. Gender and other intersecting identity factors may influence how people experience policies and initiatives. What should the CER consider with respect to:

   a. those people implementing the OPR; or

   b. those people who are impacted by the operational activities addressed in the OPR?

Please refer to Appendix A for recommendations on this matter which include but are not limited to:

-   Make cultural, diversity and unconscious bias awareness training, informed or led by Indigenous communities, mandatory for all personnel implementing the OPR.

- Require pipeline companies to mandate sexual exploitation awareness training for all staff and contractors and to include discussions about harassment, safety consent and sexual exploitation occur more regularly, for example during tailgate safety meetings.

- Require pipeline companies to work with local communities, municipalities, health authorities, RCMP and service providers to identify and set up mechanisms to track and respond to GBV issues both on and off site, and to track and report on the availability and use of services.

- The OPR can set expectations about company employment conditions, shift work, mental health and well-being policies, and the provision of services and supports.

11. How can the OPR support a predictable and timely regulatory system that contributes to Canada's global competitiveness?

Currently, the regulatory system relies on proponents to engage with Indigenous and address impacts and issues that are brought forward in that engagement. While it is necessary and important for Indigenous communities and pipeline companies to engage, communicate and develop relationships, the current regulatory system lacks recognition of, and guidance on, effective and appropriate standards and guidelines that can help to avoid and accommodate impacts. In the absence of regulatory recognition of the need for communities rights, health and well-being to be appropriately assessed and accommodated, and the need for projects to support sustainable economic development, communities are forced to use the regulatory system to leverage greater benefits, to force companies to take concerns and impacts more seriously and to engage in a more meaningful manner. Through co-developing with Indigenous communities regulatory standards and guidelines that address the types of impacts and issues experienced by communities the regulatory system can set the stage for that bilateral engagement to be more productive and efficient.

12. How can the OPR support innovation, and the development and use of new technologies or best practices?

No comment.

13. What company-specific or industry-wide performance metrics could the CER consider to support enhanced oversight and transparency for CER-regulated facilities?

14. Are there opportunities within the OPR for data and digital innovation that could be used by the CER and by companies regulated by the CER?

No comment.

15. How can the OPR be improved to address changing pipeline use and pipeline status?

No comment.

16. What further clarification, in either the OPR (e.g., structure or content), or in guidance, would support company interpretation and implementation of management system requirements?

No comment.

17. **How should information about human and organizational factors, including how they can be integrated into a company's management system, for both employees and contractors, be provided in the OPR, and/or described in related guidance?**

While human and organizational factors are necessary to consider we do not have any specific comments on how to state that in the OPR or related guidance.

18. **How can the OPR improve the connection between company safety manuals and the overarching Safety Management Program, for both employees and contractors?**

No comment.

19. **How can respect and personal workplace safety be assured at CER regulated sites?**

Make cultural, diversity, and unconscious bias awareness training, informed or led by Indigenous peoples, mandatory for all contractors, staff and management prior to arrival at the worksite. While a component of this could be web-based, it should also include in-person and interactive components to help build empathy, understanding and a sense of shared responsibility.

Require companies to have supports available to workers who experience harassment, discrimination or violence as a result of their race, gender, age or for any other reason. Although, pipeline companies should require their contractors to have these supports in place or adhere to these requirements, they should not rely solely on the contractor. Pipeline companies should have a means to connect with contractor personnel and workers without involving contractor supervisors in order to determine adherence to requirements. The company should provide liaison workers that any worker can approach to discuss these issues and that can support the worker in reporting the issue.

20. **How should the CER be more explicit about requirements for contractor management?**

The scope of requirements for contractor pre-qualification should include safety systems that explicitly recognize and address GBV issues and promote a culture of safety and respect for diversity in the workplace. There should be the ability to audit contractors and contractor personnel through direct contact and off of the worksite.

21. **How should the OPR include more explicit requirements for process safety?**

No comment.

22. **How can the OPR drive further improvement to the environmental performance of regulated companies?**

There is no clear linkage for acting upon incidents and issues that occur during the development and operation of projects with programs and plans for environmental protection. There should be a requirement in the OPR that in the event of a reported incident, companies must provide a final report that discusses how their current programs and policies have been reviewed and updated in relation to what occurred. If the company found no updates were necessary, justification should be provided.

23. How can the connection between the Environmental Protection Plan, specific to an individual pipeline, and the company's Environmental Protection Program, designed for a company's pipeline system, be improved?

No comment – while the project-specific Environmental Protection Plans are available as part of regulatory filings, we are not familiar with any company's broader Environmental Protection Program.

24. How can the contaminated site management requirements be further clarified, in the OPR or in guidance?

No comment.

25. Are there any matters related to the Emergency Management Program in the OPR that require clarification? If so, what are they? Are there any matters for which further guidance is required?

Further guidance on the notification and involvement of Indigenous communities is required.

26. How could the requirement for a Quality Assurance Program be improved or clarified in the OPR?

No comment.

27. How can the OPR incorporate key issues identified in the Safety Advisory regarding the strength of steel and the relative strength of the weld area?

No comment.

28. What are your recommendations for compliance promotion at the CER?

Ensuring all personnel employed on a pipeline during its development understand the importance of compliance and understand that they will not be penalized (directly or indirectly) for reporting or acting on non-compliance is essential. It is our understanding that personnel, particularly those employed as operators and in the trades, are reticent to report non-compliance due to fear of being penalized. This includes the fear or loss of wages due to work activities be paused to address a non-compliance. For example, a relative employed as a pipefitter on a major project in British Columbia recounted discovering that a large generator used for pressure testing had leaked its entire tank of fuel into an adjacent watercourse. While this was reported to a direct supervisor the spill was not reported to the project's environment personnel so the leak into the watercourse was not addressed. Unfortunately, incidents like this are more common than companies recognize or are willing to admit. All project personnel (and contracted companies) must be encouraged to report non-compliances without fear of penalty. Perhaps, more covert oversight, monitoring and inspection is required to help identify non-compliances.

29. How do you want to be engaged by the CER in the development of technical guidance?

LSAM would like to have the opportunity to participate in development of standards and guidelines that pertain to impacts and issues experienced by Indigenous communities in relation to pipeline development and operation including:

- the avoidance and mitigation of impacts on Indigenous and Section 35 rights;

- Monitoring efficacy of rights-related mitigation measures and the accuracy of impact predictions;

- Involvement of Indigenous communities in incident / emergency response;

- Ensuring the safety and security of Indigenous women, girls, youth and gender diverse individuals is properly addressed; and,

- Assessing and ensuring the benefits of projects support sustainable economic development and the prosperity of Indigenous communities.

Engagement could include the opportunity (including any necessary capacity funding) to participate in committees that guide the development of technical guidance, to participate on working groups that develop the technical guidance, and to independently review and comment on drafts of technical guidance.

CLOSING

Our input regarding the OPR is offered within the context of our Community's ever evolving relationship with the CER, and with the owners of CER-regulated pipelines. It is with the spirit of partnership, mutual respect, openness and transparency that we have shared our comments and feedback, intended solely to be constructive and reflective of the openness and transparency with which we view our relationship with the CER.

Respectfully,

Dale Friedel, President
Lac Ste. Anne Métis Community Association

Cc: Nicole Nicholls, LSAMCA contractor

APPENDIX A

The Socioeconomic Subcommittee (SESC) of the Indigenous Advisory and Monitoring Committee for the Trans Mountain Expansion Project and Existing Pipeline (IAMC-TMX) submission to the House of Commons Standing Committee on the Status of Women
On-line: https://www.ourcommons.ca/Content/Committee/441/FEWO/Brief/BR11806966/br-external/IndigenousAdvisoryAndMonitoringCommittee-TMX-e.pdf

To: House of Commons Standing Committee on the Status of Women

From: The Indigenous Caucus (Caucus) of the Indigenous Advisory and Monitoring Committee for the Trans Mountain Expansion Project and Existing Pipeline (IAMC-TMX)

Date: May 9, 2022

RE: Resource Development and Violence Against Indigenous Women and Girls

BACKGROUND

The Indigenous Advisory and Monitoring Committee for the Trans Mountain Expansion and Existing Pipeline ("IAMC-TMX") was established in 2017 and is intended to form the basis of a new relationship between Indigenous Communities, the Government of Canada and the Canada Energy Regulator ("CER") in respect to Trans Mountain Corporation ("TMC") and Trans Mountain Expansion Project ("TMEP") activities. The Committee, comprised of 13 Indigenous and six senior federal representatives and serving 129 impacted Indigenous communities, provides for collaborative, inclusive and meaningful Indigenous involvement in the review and monitoring of the environmental, safety and socioeconomic issues related to TMC activities over their lifecycles.

A key priority of the IAMC-TMX since its inception has been identifying and addressing the impacts to Indigenous communities resulting from temporary work camps and influx of workers. The IAMC-TMX Socioeconomic Subcommittee ("SESC"), established in 2018 and comprised of Indigenous and federal members, and with TMC representatives invited monthly to provide Indigenous-specific reporting, seeks to support Indigenous communities in their efforts to improve how socioeconomic effects associated with major projects, such as TMEP, are identified, addressed and managed. Currently, the work of the SESC is focused on:

- Building capacity for Indigenous communities, at the regional and community level, to participate directly in socioeconomic monitoring, including through the identification of important social, economic, health & wellbeing, and cultural indicators, as well as actions focused on preventing or mitigating adverse project impacts in their territories. While this work largely focuses on TMEP, the learnings can be applicable to future projects. The SESC's current work involves three pilot projects, including two new, regional working groups based in Alberta [Yellowhead] and British Columbia [Fraser Valley], and a community-based monitoring program situated in the BC Interior [Simpcw].

- Conducting research, with input and guidance from Indigenous communities, in areas such as assessment of TMEP polices and regulations from an international best practice perspective, researching labour demand[1] and other economic inclusion[2] matters with a focus on TMC and TMEP, analyzing the intersection between TMEP's transient workers and impacts to affected Indigenous communities, and exploring potential ways that Indigenous oversight regarding social, cultural and rights-based issues may be enhanced.

- Holding monthly discussions with TMC focused on tracking and reporting of co-developed, Indigenous-focused socioeconomic indicators as an aspect of enhancing Indigenous participation related to TMEP's existing Socio-Economic Effects Monitoring Plan ("SEEMP").

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[1] Castlemain Group, "Trans Mountain Expansion Project: Labour Demand Study" (2019).
[2] Callison & Hanna Indigenous Advocates, "Report on Indigenous Socio-Economic Inclusion Related to the Trans Mountain Expansion Project" (2019).

- Documenting lessons learned through the work of the SESC, including for the purposes of providing advice to government regarding TMC and TMEP (and by extension, future major projects), and with a goal of enhancing the socioeconomic oversight role of Indigenous peoples.

In 2021, Indigenous members, federal regulators and TMC representatives co-developed three socioeconomic monitoring pilot initiatives through the SESC, one situated in Alberta [Yellowhead] and two situated in BC [Fraser Valley and Simpcw]. The overarching aim of these pilot initiatives is to strengthen Indigenous oversight regarding socioeconomic risks and effects, including related to TMEP's five work camps in British Columbia and the large numbers of workers using temporary accommodation in both BC and Alberta. Specific objectives include:

- To identify regional and community-based socioeconomic effects monitoring priorities;

- To enhance information gathering, data sharing and reporting activities with the intent of improving management of socioeconomic effects; and

- To bolster existing or inform new response or mitigation measures.

Much of the work of the SESC and its three pilot initiatives aligns with the National Inquiry's Calls for Justice related to the Extractive and Development Industries, as well as with federal commitments to addressing ongoing concerns related to Missing and Murdered Indigenous Women and Girls ("MMIWG") and Gender-Based Violence ("GBV").

FOCUS OF THIS BRIEF

This brief is situated in the work of the SESC over the past five years, including work that has been undertaken through our three pilot initiatives, and is being submitted for the purpose of highlighting key socioeconomic issues and priorities that have been identified by affected Indigenous communities related to TEMP. In alignment with the Status of Women Committee's invitation to the public in spring 2022, we have primarily focused this written brief on matters concerning temporary work camps and influx of workers, both of which are an ongoing phenomenon directly related to resource development projects.

The work undertaken by the SESC since 2018 highlights that, for Indigenous peoples, the requirements and conditions for identifying, managing, monitoring and responding to social, economic, cultural and health & wellbeing issues and concerns pertaining to natural resource projects are insufficient. Government, industry and Indigenous communities have much more to do to effectively understand and manage these concerns, including in relation to matters concerning MMIWG and GBV. This brief provides recommendations for legislative change(s), regulatory adjustment(s), collaboration and provision of funding that would empower Indigenous communities to be more instrumentally involved in identifying risks and developing (and implementing) solutions.

SESC research involving Indigenous communities, including research that has been carried out through our pilot regional and community-based initiatives, has identified deep, ongoing concerns regarding community safety and security related to TEMP. This includes angst associated with the high numbers of non-local workers entering into Indigenous territories, and where it is understood that vulnerable populations, including Indigenous women and girls, youth and gender diverse individuals, will bear impacts such as reduced access to traditional harvesting and/or hunting sites, increased incidents of racism on and off construction sites, and escalation in GBV, etc.

Major projects such as TMEP lead to an influx of many thousands of non-local workers into Indigenous territories, these numbers over and above those non-local workers already working in the resource sector in those territories. This amplifies Indigenous concerns regarding the safety of their members, including women and children. Through SESC research, we have heard from Indigenous members that some feel it necessary, in the context of TEMP, to perpetually consider their own safety when making decisions about day-to-day activities, such as if and when they will leave the house to access local services, to visit cultural sites (if those have not been disrupted by construction), or to participate in cultural activities, such as hunting and/or harvesting (if access has not been prohibited due to construction). The influx of cash into local economies that comes with major projects, resulting from relatively well-paid employment positions and long hours of work, is believed to lead to increases in incidents of GBV.[3] These issues also have linkages to increased use of illicit drugs, abuse of alcohol and activities associated with sexual exploitation. Sexual assault, harassment, and human trafficking are issues that remain of critical concern for Indigenous communities living proximate to work camps, as well as of communities facing large influxes of non-local workers staying in temporary accommodation, such as hotels, motels, rental housing, and RV parks, etc. In addition, Indigenous communities fear that the strain on local services due to the addition of vast numbers of workers into the local area, such as in the case of medical services, is not well reported.

These prevailing concerns of Indigenous communities, as identified through the work of the SESC, are corroborated by other studies. Research by Amnesty International (2019) has demonstrated that an influx of a temporary, largely male workforce increases the demand for sex purchasing and the presence of sex trafficking in a particular area or community (forced entrance into the sex trade), as well as actual sex work (voluntary and consensual entrance into the sex trade).[4] As this mostly male workforce travels back and forth to rural communities for resource development reasons, so too does the sex trade.[5] Sex trafficking can also occur within work camps themselves through exploitation of the female workforce in exchange for enhanced economic opportunities (i.e. to get a better schedule or a promotion).[6] Other studies have found that the resource extraction sector has legacies of a hyper-masculine culture that can be amplified by alcohol and drug consumption.[7] In cases where there is an influx of temporary workers into work camps, and where abuse of alcohol exists, there are increased incidences in drunk driving and accidents, sexual harassment and assault, and other forms of violence and discrimination towards Indigenous community members and Indigenous workers.[8] The potential for GBV increases in such contexts, in the form of violence against women and girls, unwanted sexual comments and touching, harassment, sexual assault and human trafficking.

The historical views of Indigenous females as sexually available has carried into the views and attitudes of many non-Indigenous citizens.[9] Sexual violence and exploitation are frequently seen by non-Indigenous people as a consequence for a personal choice, rather than abuse or an infringement on human rights, thus normalizing the violence.[10] The hyper-masculine culture and values associated with industrial camps perpetuate harmful stereotypes and normalizes the violence to Indigenous women, girls and 2SLGTQQIA by

[3] See Carol Linnett, "B.C. failed to consider links between 'man camps,' violence against Indigenous women, Wet'suwet'en argue," *The Narwhal* (2020). https://thenarwhal.ca/b-c-failed-to-consider-links-between-man-camps-violence-against-indigenous-women-wetsuweten-argue/
[4] Amnesty International, "Out of Sight, and Out of Mind: Gender, Indigenous Rights, and Energy Development in Northeast British Columbia, Canada" (2016).
[5] Native Women's Association of Canada, "NWAC Discouraged by Racist Assumptions in the Globe and Mail" (2014).
[6] The Firelight Group, Lake Babine Nation, and Nak'azdli Whut'en, "Indigenous Communities and Industrial Camps: Promoting Healthy Communities in Settings of Industrial Change" (2017).
[7] The Firelight Group, "Temporary Workcamps and Influx of Workers Initiative – A Focus on Racism and Grievance Mechanisms" (2022); Jennifer Dorozio and Hannah Kost, "Hyper-masculine environment' contributes to higher rate of suicides in oilpatch," *Canadian Broadcasting Corporation* (2019). https://www.cbc.ca/news/canada/calgary/mental-oil-alberta-oil-patch-1.5277079.
[8] Community Development Institute [CDI], "Best Practices Guiding Industry-Community Relationships, Planning, and Mobile Workforces" (2019).
[9] Sarah Hunt "Restoring the Honouring Circle: Taking a Stand against Youth Sexual Exploitation" (2011).
[10] National Inquiry into Missing and Murdered Missing Indigenous Women and Girls, *Reclaiming Power and Place: The Final Report of the National Inquiry into Missing and Murdered Indigenous Women and Girls* (2019).

allowing workers to seek out sex workers and contribute to the increase in sex trafficking.[11] The demand for the sex trade now relies on the use of technology for sex work exchanges, making it less visible in communities and camps, but still very much present.[12]

It is well documented that Indigenous women, girls and 2SLGBTQIA are disproportionately present in the sex trade and are most at risk of being exploited in work camps and rural communities.[13] Studies point to the ongoing legacies and current realities of colonialism, racism, and gender discrimination as underlying reasons for why Indigenous women, girls, and 2SLGBTQIA experience higher rates of poverty, lower levels of education, greater incidents of homelessness and ongoing, deep-seated self-esteem challenges that put them at a heightened risk to be sexually exploited and trafficked.[14] We also know that, as of May 2022, Indigenous women now account for one-half of the female population in federal penitentiaries, while making up only 1 in 20 of women overall in the Canadian population.[15] Moreover, it is well understood that once Indigenous women have encountered the judicial system, their criminal record history can be a major deterrent for their further employment success, making them more vulnerable to those that would seek to exploit them.[16] Indigenous communities, particularly those nearby larger cities, are often targets for the trafficking of women and girls.[17]

Effective mechanisms to support community safety and that can ensure the security of individuals remains deficient. Through research that is currently underway, the SESC has found a lack of appropriate community and regional supports that serve to effectively protect the most vulnerable populations in Indigenous communities.[18] This includes a lack of public transportation options to/from remote communities and a lack of women's shelters. In a development-intensive area such as Fort St. John, BC, organizations supporting victims of violence and sexual assault report that they have long waiting lists of women seeking their help.[19] Without assurance that such supports are in place, women and girls are at higher risk when travelling for any reason, including to larger centers that can potentially provide greater support.[20] Indigenous members associated with the SESC have also commented on the changes in housing availability and accessibility as a result of major projects and an influx of thousands of workers. This includes rental housing being used to house resource development workers and skyrocketing rental costs that are the result of workers who are willing and able to pay higher rates for local accommodation.[21] This effect compounds existing issues regarding vulnerability, and results in an enhanced need for appropriate supports to ensure that Indigenous communities are able to better mitigate and prevent GBV and sexual exploitation from occurring.

The **absence of appropriate grievance mechanisms in connection with major projects** means that victims are more likely to <u>not</u> report incidents when they do occur, including due to a lack of trust that the incident will be meaningfully addressed.[22] We have heard from Indigenous communities that there is a lack of awareness and trust in industry-led grievance mechanisms and that industry-led hotlines are not a form of meaningful engagement with Indigenous people.[23] Industry and regulators, alongside Indigenous

[11]The Firelight Group, Lake Babine Nation, and Nak'azdli Whut'en, "Indigenous Communities and Industrial Camps: Promoting Healthy Communities in Settings of Industrial Change" (2017).

[12] Dustin William Louie, "Social Media and the Sexual Exploitation of Indigenous Girls" (2017).

[13] Dustin William Louie, "Preventative Education for Indigenous Girls Vulnerable to the Sex Trade" (2016).

[14] Native Women's Association of Canada, "NWAC Discouraged by Racist Assumptions in the Globe and Mail" (2014).

[15] Patrick White, "Shocking and shameful: For the first time, Indigenous women make up half the female population in Canada's federal prisons" *Globe and Mail* (2022). https://www.theglobeandmail.com/canada/article-half-of-all-women-inmates-are-indigenous/

[16] Native Women's Association of Canada, "Sexual Exploitation and Trafficking of Aboriginal Women and Girls: Literature Review and Key Informant Interviews Final Report" (2014). https://www.nwac.ca/wp-content/uploads/2015/05/2014_NWAC_Human_Trafficking_and_Sexual_Exploitation_Report.pdf

[17] Native Women's Association of Canada, "NWAC Discouraged by Racist Assumptions in the Globe and Mail" (2014).

[18] The Firelight Group, "Temporary Workcamps and Influx of Workers Initiative – A Focus on Racism and Grievance Mechanisms" (2022).

[19] Kyle Edwards, "How we treat women: Worker camps make it possible to build infrastructure in remote locations in Canada. Is it worth the human cost?" *Maclean's* (2019). https://www.macleans.ca/how-we-treat-women/

[20] The Firelight Group, "Temporary Workcamps and Influx of Workers Initiative – A Focus on Racism and Grievance Mechanisms" (2022).

[21] *Ibid.*

[22] *Ibid.*

[23] *Ibid.*

communities, need to collaborate to design appropriate grievance mechanisms and to ensure that reporting of incidents of sexual assault and harassment is transparent so that action can be taken to ensure appropriate support of victims, and to prevent further such incidents from occurring. Presently, should a worker be dismissed for wrongful behaviour, in particular related to an incident involving a member of a vulnerable population, there is no mechanism to ensure public reporting and tracking of these incidents while still abiding by applicable labour laws. To reflect a more accurate depiction of the risks and to ensure that the behaviour is not repeated elsewhere (by the same or other individuals), more transparent reporting is required.

The SESC receives monthly reports from TMC regarding predetermined socioeconomic matters, and members of the SESC are able to make specific queries of TMC as an aspect of increasing Indigenous participation in the oversight of TMC's SEEMP. These monthly reporting sessions stem from SESC and TMC collaborations in 2019 which sought to address a gap identified by Indigenous Caucus members related to a lack of Indigenous-specific socioeconomic effects indicators related to TEMP. This has led to some improvements, such as TMC beginning to collect gender disaggregated data pertaining to Indigenous employment and training. However, the information being gathered is not available as it corresponds to specific regions or to specific Indigenous communities. This is an ongoing concern expressed at the SESC, that **major projects are not required to track Indigenous-focused data, including as this pertains to the effects of the project on Indigenous communities, and nor are impacts by gender being appropriately tracked.** These ongoing concerns can be seen to contribute to the underreporting of GBV related to specific projects.[24] Further to the above, the work of the SESC has highlighted the challenges of tracking and attributing certain socioeconomic effects to one proponent in an area where there is more than one major project occurring. These findings are consistent with research carried out within other communities impacted by resource development projects, such as Lake Babine Nation and Nak'azdli Whut'en.[25] Often women and girls do not report assault and harassment due to a wide variety of barriers that include systemic racism (that exists at various levels), women not being believed, lack of access to services, trauma and poverty, among others.

Relationships to service providers. The Final Report of the National Inquiry into MMIWG points attention to the use of disproportionate force against Indigenous peoples, and deficiencies regarding how police conduct investigations involving Indigenous peoples. Through engagement and research conducted by the SESC, Indigenous peoples have advocated for a strong, supportive relationship with local RCMP with the aim of enhancing the safety of Indigenous communities.[26] For example, through direct involvement in the SESC's pilot initiatives, we have heard from both local RCMP and Indigenous communities about concerns over the anticipated increase in alcohol/drug induced criminal behaviour (i.e. fights, drunk driving, sexual assault) that can result from an influx of temporary workers, and its impact on already burdened police detachments. Establishing a relationship early on, prior to actual incidences occurring, and instituting effective communication of existing policies as well as changes being enacted by policing agencies, can contribute to communities being better prepared and appropriately protected in relation to major projects.[27] This would include an appropriate increasing of policing resources aligned with increases in the non-local population related to an influx of temporary workers.

Over the past few years, the SESC has been aware of Indigenous concerns pertaining to TMEP as this relates specifically to choices that were made as a part of the project's Worker Accommodation Strategy ("WAS"). A WAS is an important aspect of major projects as it is intended to effectively deal with the reality of high numbers of non-local workers working on a project. The choice of strategy taken by a company can greatly

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[24] *Ibid*.
[25] The Firelight Group, Lake Babine Nation, and Nak'azdli Whut'en, "Indigenous Communities and Industrial Camps: Promoting Healthy Communities in Settings of Industrial Change" (2017).
[26] National Inquiry into Missing and Murdered Missing Indigenous Women and Girls, *Reclaiming Power and Place: The Final Report of the National Inquiry into Missing and Murdered Indigenous Women and Girls* (2019).
[27] The Firelight Group, Lake Babine Nation, and Nak'azdli Whut'en, "Indigenous Communities and Industrial Camps: Promoting Healthy Communities in Settings of Industrial Change" (2017).

influence the type of impacts that nearby Indigenous communities will face. **Construction (or work) camps** are temporary facilities, where workers are housed, fed, and kept together in one space, often at some distance from a nearby community. **Hotel- or motel-based accommodation strategies**, as well as private rental accommodation and RV parks, involve workers being housed individually, with their down time spent alone at their place of accommodation which is often located in a town or city. Hotel-based behaviour is a concern for Indigenous peoples given that company oversight, protocols and policies are more difficult to implement and monitor, and worker behaviour in public settings is harder to control.[28]

In both instances above – construction camps or hotel-based accommodation – decisions that are key to ensuring the prevention of adverse impacts include: the specific location of the camp, the strength of policies regarding drugs and alcohol and harassment, conditions that are set by the regulator, training that is required to be taken by workers, and the depth of relationships that are fostered with local responders and community supports.

Table 1: The following are concerns raised by Indigenous communities affected by TMEP in connection with two different approaches to worker accommodation and with potential impacts on Indigenous women and girls.

Issue	Work Camp	Hotels (or private rental, RV parks)
Access to alcohol	Camps can have wet, dry, or damp camp policies, all of which can influence worker behaviour and choices. Government influence on regulations of camps could guide camps towards dry requirements. However, workers may then choose to leave camp after shifts to seek out access to alcohol. Workers under the influence of alcohol or drugs can experience heightened feelings of loneliness, leading them to seek out sexual services, or these substances may lead them to behave inappropriately towards women and girls. At camps, this behaviour can be curbed by the effect of being observed by co-workers.	Hotel-based behaviour is unregulated. Workers can drink freely, and this can influence their abuse of alcohol (and also drugs) as well as the choices they make after hours, potentially putting at risk Indigenous women and girls living in communities where workers are housed.
Unwanted comments, touching and sexual harassment	Policies regarding at work behaviour and conduct in the camp can be set and enforced. Worker behaviour after hours at the camp can be observed, regulated, and sanctioned more easily if it is reported or observed.	Policies can be set for expectations for worker conduct during and after work. Worker behaviour offsite is harder to observe and regulate.
Sexual assault	Policies for at work and in camp behaviour can be established by companies. Sexual assaults occur on site. Mechanisms for reporting assault on site need to be clearly established, used, and reported on. Assaults at camps generally get reported to the RCMP or other local police. As such, the assault may or may not get reported and coded to the industry, or to the regulator, thereby causing such incidences to go under the radar in relation to resource development projects.	Policies for at work and in camp behavior can be established by companies. Hotel behaviour is harder to observe given the privacy afforded at a hotel or other non-camp accommodation. Sexual assaults off hours and at hotels generally get reported to the RCMP or other local police and are not tracked or connected to an industrial camp, or to the regulator, causing them to go under the radar in relation to resource development projects.
Behaviours at Camp as suggested through Code of Conduct (potential regulatory condition)	Regulators can set a requirement for a Code of Conduct. The Code of Conducts can be set and enforced during and after work hours.	The Code of Conducts can be set and enforced during and after work hours, although this is more challenging when workers are staying in hotel or other private accommodations.

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[28] The Firelight Group, "Temporary Workcamps and Influx of Workers Initiative – A Focus on Racism and Grievance Mechanisms" (2022).

Further to the above, SESC members have expressed concern that the TMEP WAS is not required to be regularly updated, nor are Indigenous communities consulted as the project proceeds and schedules and workforce needs require adjustments. Regular communication and collaboration with impacted Indigenous communities, far ahead of a project and throughout, would build an improved understanding of local realities concerning housing needs and availability, and better tracking of the pressures and impacts associated with a temporary influx of workers.

Recommendations

Indigenous communities collaborating with the CER, other federal departments, TMC, and other service providers and partners have been central to advancing the work of the SESC and have enabled us to contribute a unique perspective, with targeted recommendations, to the House of Commons Standing Committee on the Status of Women. While the SESC is currently organizing to more fully document learnings from the past five years through a 'Wise Practices' process, we welcome this opportunity to put forward, on behalf of Indigenous Caucus members, the following lessons learned from our work.

- There is a need to move beyond cultural competency and towards achieving **cultural safety**. Cultural safety requires addressing power imbalances and understanding personal and system biases, as well as developing and maintaining respectful processes and relationships based on mutual trust. Governments and regulators can help to ensure cultural safety by making the necessary changes to laws, policies, regulations, and practices, including the creation of an ***Anti-Racism Act***. Such changes would make **cultural, diversity, and unconscious bias awareness** training, informed or led by Indigenous peoples, mandatory for all contractors, staff and management prior to arrival at the work site. This training could address etiquette, cultural awareness, customs, respect for Indigenous cultures and peoples, LGBTQIA2S+ awareness, and training regarding policies for traditional use and heritage resources finds.

- Regulators and industry can **set conditions that require workplaces to normalize a culture of respect for women by mandating sexual exploitation awareness training for all workers**, and by ensuring that formal workplace discussions regarding consent and sexual exploitation occur with greater frequency, and that there is clear communication about GBV from leadership.

- Regulators and industry need to **examine the culture associated with the resource sector and the harsh expectations this puts on the entire labour force**. Fundamental structural adjustments are necessary to re-examine the necessity for 12-hour shifts and mobilizing for multiple weeks or months at a time, including as this relates to not just the requirement for travel, but the psychosocial costs of being away from family and out of community. Current requirements of the resource sector place social strains on workers, their families and their communities that are only now beginning to receive the attention they deserve. The documentary *Digging in the Dirt* effectively highlights the challenges faced by the work force (https://digginginthedirtfilm.com/).

- Develop a **national counter exploitation program** and deliver it at industrial sites, whether they are utilizing housing or camp-based accommodation strategies. This would include informing hotel employees to recognize signs of human trafficking and with a view to better monitoring of hotel-based behavior of workers so that project-linked incidents are identified and responded to.

- **Continue funding for Indigenous oversight of resource development activities**. Through federal funding of Indigenous socioeconomic monitoring, such as through the IAMC-TMX and its regional and community-based pilots associated with the SESC, a community of practice and web of safety is being developed with a focus on TMEP.

- Make funding and capacity supports available to Indigenous communities for the **development of community-based socioeconomic effects monitoring programs**. Socioeconomic risks must be defined by communities in order to ensure that what matters most to them is protected, in alignment with international and constitutionally protected Aboriginal and Treaty rights of Indigenous peoples as well as commitments now made under UNDRIP.[29] Community-based monitoring supports Indigenous communities to enact self-government by enhancing oversight of socioeconomic risks and benefits from major projects on their traditional lands.

- Funding needs to be made available for **Indigenous community-led research**. The field of socioeconomic effects monitoring is relatively new, particularly in regards to Indigenous interests and concerns. Support of community-led research in this field is key to addressing existing knowledge gaps and to ensuring the development of targeted interventions to address ongoing concerns related to MMIWG, GBV and the extractives sector. Targeted community-led research (undertaken with research partners) in relation to MMIWG and temporary work camps and influx of workers can lead to improvement of the managing of future resource development projects, including in relation to more effective issues response mechanisms.

- **Improvements are required in the breadth, tracking and analysis of socioeconomic data** by industry, including requirements for more regional tracking in areas where multiple projects are occurring or anticipated. Regulators and industry need to collaborate with Indigenous communities to define data needs and ensure that analysis and reporting of socioeconomic indicators meets the information needs of Indigenous communities and are coupled with clear requirements for action. Improving access to Indigenous statistics and data governance is aligned with existing Indigenous principles governing how data is collected, protected, used and shared (Ownership, Control, Access, Possession).[30]

- **Tracking the availability and use of services** focused on preventing and addressing GBV in regions with high levels of resource extraction will allow for impacts to be traced back to industrial activity. These impacts are currently masked, particularly in Alberta, where it is hard to pull apart the impacts of specific projects due to the high volume of resource development activity.

- As with environmental concerns, **regulatory conditions are needed regarding expectations for mental health and well-being policies, services, and provision of community-based supports** as these relate to the effects of resource development projects, including as these pertain to the influx of temporary workers. Currently the requirements of regulatory bodies are deficient in terms of identifying, managing and reporting on impacts or ensuring that effective access to services exist in the event of assault and harassment, sanctions for behaviours, and preventative approaches (such as decisions regarding the siting of camps, selection and updating of a worker accommodation strategy, strength of on-site policies regarding harassment and racism, support services, tracking of assaults, access to grievance mechanisms, etc.).

- **Proponents, the RCMP, health authorities and Indigenous communities need to collaborate** at the earliest stages of a project with a view to **identifying and setting up mechanisms that can more effectively track, monitor and respond to GBV issues**, both on and off site, and to determine ways that Indigenous communities can be involved so as to ensure greater transparency.

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[29] UN General Assembly, "United Nations Declaration on the Rights of Indigenous Peoples: resolution/adopted by the General Assembly" (2007).
[30] First Nation Information Governance Centre, "Ownership, Control, Access and Possession (OCAP): The Path to First Nation Information Governance" (2014). https://fnigc.ca/wp-content/uploads/2020/09/5776c4ee9387f966e6771aa93a04f389_ocap_path_to_fn_information_governance_en_final.pdf

- Further **research is needed to examine the effects of drug and alcohol consumption in work camps and other forms of worker accommodation** for project staff and contractors, during and after-hours, and on and off-site. This research would support the development of policies and programs that are more effective and would encourage harm reduction (for workers as well as for Indigenous women and girls and 2SLGBTQIA people).

Efforts to understand, address, and monitor the social, economic, health & well-being and cultural impacts associated with resource development projects, particularly as this concerns impacts to Indigenous women, girls and gender diverse people, is still in its infancy. In a time of reconciliation, impacted Indigenous communities need to be at the centre of conversations focused on improving policies and regulations. In keeping with the spirit and intent of UNDRIP, the Indigenous Caucus welcomes any future opportunities to advise the Standing Committee as they proceed with their study.

Sincerely,

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Chair of the IAMC-TMX Socio-Economic Subcommittee

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