

GUIDELINES OF THE MINISTÈRE DE L'ÉNERGIE
ET DES RESSOURCES NATURELLES IN THE
AREA OF SOCIAL ACCEPTABILITY

► **GREEN PAPER**



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MESSAGE FROM THE MINISTER

In Québec in 2015, citizens, regional and government authorities, the business community, elected representatives, host communities, investors and environmental groups are all increasingly concerned by the social acceptability of development projects. More than ever before, Quebecers consider that projects must necessarily be implemented in cooperation with local and Aboriginal communities, using a transparent information and consultation process. For this reason I launched the workshop on social acceptability in November 2014.

The objective of the workshop was to identify ways forward and define guidelines in order to modernize the tools and methods used by the Ministère de l'Énergie et des Ressources naturelles (MERN). Another goal was to adapt existing tools to ensure more consideration for the factors influencing social acceptability when public land and energy and mineral resources are developed.

This Green Paper results from the workshop process, and sets out broad guidelines on the basis of which the MERN will adapt its consultation mechanisms to improve the harmonization of land uses and ensure the social acceptability of development projects. The ultimate goal is to target the optimum use of land and resources in Québec in a manner consistent with the aspirations, values and interests of the communities concerned. Land and natural resource development must take place alongside a search for the conditions that will allow as broad a consensus as possible to be achieved in each host community.

My own goal is clear: to ensure that all the necessary steps are taken to promote a dialogue between the parties and reconcile economic prosperity with respect for living environments. To achieve this, we must take into account the expectations and interests of local populations when planning and implementing land and resource development projects. The benefits of this process will be felt in the Québec of the future!



PIERRE ARCAND

INTRODUCTORY NOTE

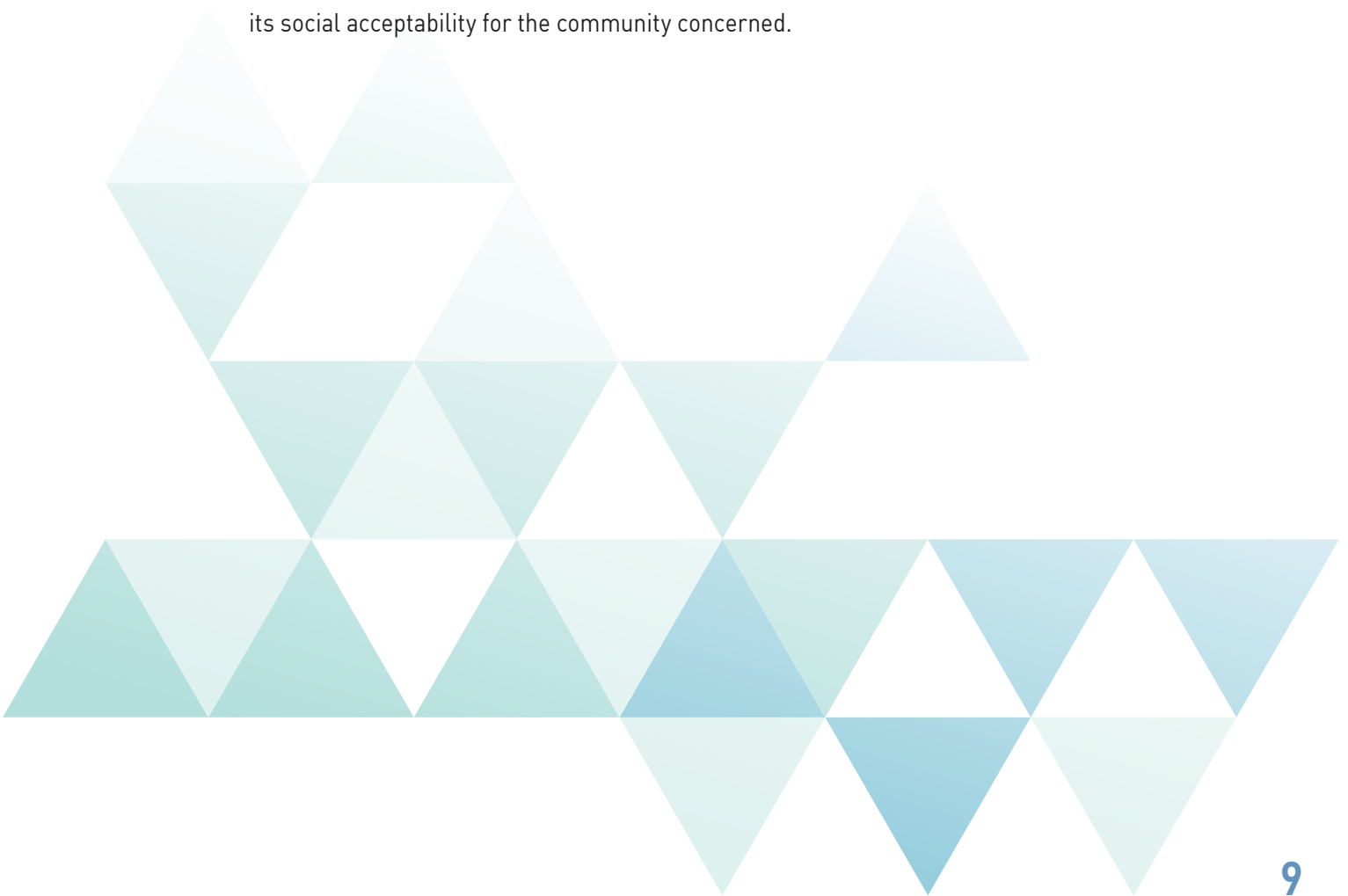
The MERN is required to consult communities and, in some circumstances, accommodate them when it is aware of an Aboriginal or treaty right that is either established or claimed, and is considering a measure that may have a negative impact on that right.

The proposals in this Green Paper do not change the MERN's obligation to consult and, where applicable, accommodate Aboriginal communities before issuing an authorization. The MERN's current approach to Aboriginal consultations will remain the same: before issuing an authorization, it will assess the need to consult the Aboriginal community; where applicable, the scope of the consultation and the process used will then be determined. Similarly, the MERN's other obligations or commitments to the Aboriginal community remain unchanged, whether governed by legislative or other documents. As a result, this Green Paper has no effect on any accord, agreement or contract that is duly signed and in effect.



BACKGROUND

Social acceptability is increasingly seen as a necessary component in any project to develop energy or mineral resources in Québec. The implementation of a project does not just involve assessing its economic benefits and environmental impacts—the social acceptability of the project for the communities concerned must also be taken into account. Social acceptability is not synonymous with unanimous approval, or with basic compliance with all the applicable legal obligations and standards. Rather, it is based on information, consultation, and dialogue between the promoter, the stakeholders, and the citizens in the communities directly concerned. It requires a debate, prior to the authorization process, about the project's underlying issues and the concerns it raises among interested parties and citizens. This gives the promoter an opportunity to improve the project to increase its social acceptability in the community. Social acceptability essentially results from a consultation process in which the promoter, elected representatives, organizations, groups and citizens come together to discuss the conditions that will allow the development project to proceed. Social acceptability is therefore an essential element in the viability of a project, both for the promoter and for governments. The fact that a promoter has set up a consultation process does not mean that its project will be automatically accepted and authorized by the government, since the process may lead to a refusal by the community to accept the project. Ultimately, the government is responsible for setting conditions for the project's authorization, taking into account its social acceptability for the community concerned.



CONSULTATION PROCESS, MAIN OBSERVATIONS AND POSSIBLE SOLUTIONS

Against this background Pierre Arcand, the Minister of Energy and Natural Resources and Minister responsible for the Plan Nord, announced a broad-based workshop on the social acceptability of energy and mineral resource development projects in Québec in November 2014. The Minister instructed the consulting firm Raymond Chabot Grant Thornton, as well as Transfert Environnement et Société, to review current practices and tools at the MERN in order to “promote the harmonization of land uses and improve social acceptability in connection with the use and development of public land and energy and mineral resources.”

The review covered four main themes:

- > The role played by decision-making authorities at the local, regional and provincial levels.
- > Participatory approaches.
- > Consideration for the social, environmental and economic repercussions of projects at the local, regional and provincial level.
- > Benefit-sharing mechanisms.

Based on a diagnosis of the MERN’s current practices in the area of social acceptability, the consultant held 25 discussion panels with local elected representatives, stakeholders and citizens in Montréal, Québec City, Sept-Îles, Rouyn-Noranda and Gaspé, and also with Aboriginal communities, including the Huron and Cree nations, respectively at Wendake and Mistissini. In all, over 200 people took part in the discussion panels between May and September, and 41 briefs were submitted by citizens, groups and associations.

Some important general observations can be made following the discussion panels:

- > Although social acceptability has become an essential element, it has no generally-accepted definition. In the view of some participants, it cannot be simply a public consultation process, which does not automatically ensure acceptance of a development project by the host community. For others, it offers a possibility of saying “No” to a project at an early stage, reducing the promoter’s financial risk. Last, social acceptability does not require unanimity; instead, it involves facilitating the search for the conditions needed to obtain as broad a consensus as possible in the community.
- > The MERN’s current responsibilities are not well known to the general public, or are perceived as being contradictory and needing clarification. The MERN must make its responsibilities better known as the government department that gathers knowledge about the land base and its development potential, plans land uses and harmonizes the use of public land and, in the economic arena, provides support for promoters as they submit their energy and mineral resource development projects.
- > It is important to develop a clear vision for development prior to the authorization process for specific projects, by setting up land planning mechanisms that give stakeholders and citizens a more active role, in particular during the drafting and updating of public land use plans (PATPs).
- > The issue of social acceptability does not concern the MERN alone; it also involves the other government departments and bodies to which promoters and local authorities must refer as part of the government authorization process. Promoters, regional county municipalities and local municipalities must receive more support at each stage in the project approval process. In addition, there is a wish to see a public feedback exercise at the end of the government authorization process, to ensure that the conditions set by the government and the commitments made by the promoter are explained.

Based on these general observations, the consultant's report contained a number of suggestions for improvement:

- > Clarify the MERN's role and responsibility in the gathering and dissemination of data, the planning and monitoring of the use of public land, and the providing of support for promoters wishing to implement energy and mining projects.
- > Establish a coordination mechanism for the various government departments involved in the development project authorization process.
- > Provide more information about projects for host and Aboriginal communities, using a single access point through all project stages, and plan a public feedback mechanism to apply after government authorization is granted.
- > Structure and improve the MERN's participatory processes, in particular by involving citizens in the drafting of public land use plans (PATPs).
- > Provide more support for citizens, local municipalities and regional county municipalities during the information and consultation processes that take place before a project is implemented, and throughout its lifecycle.
- > Strengthen the MERN's ability to analyze the economic benefits, social repercussions and environmental impacts of a project, and the results of the participatory community consultation approach to project assessment, in keeping with the principles of sustainable development, in particular by creating a major project management team and an independent office for the economic analysis of projects.



MERN GUIDELINES IN THE AREA OF SOCIAL ACCEPTABILITY

Drawing inspiration from the solutions outlined in the consultant's report, the MERN can now propose a set of guidelines for the processes, information tools and public consultation mechanisms that will help ensure greater social acceptability for the communities affected by the development of energy and mineral resources. The goal of this document is to equip the MERN with updated intervention tools that are better adapted to the different stages in the lifecycle of a project: project design, information dissemination, public consultation, feedback following authorization, construction, operation, and closure. The proposed guidelines will also allow the MERN to fully assume its responsibilities to act as the custodian of public land, harmonize land uses, and provide support for companies proposing projects that can contribute to the development of Québec's economy and the prosperity of Québec society through natural resource development.

The MERN proposes the five following departmental guidelines:

- 1.** Make the MERN's roles and responsibilities in the area of land use planning and land management better known.
- 2.** Make the mechanisms for land planning and land use harmonization contained in public land use plans (PATPs) more transparent, participatory and up-to-date.
- 3.** Establish predictable information and consultation processes at all project stages.
- 4.** Promote the sharing of benefits from energy and mining development projects with host communities.
- 5.** Enhance the MERN's ability to analyze the impacts, economic benefits and repercussions of projects by taking social acceptability factors into account.

These guidelines will be submitted to the National Assembly's Committee on Agriculture, Fisheries, Energy and Natural Resources. The committee will hear the main players concerned by the development of Québec's energy and mineral resources with respect to the proposed departmental guidelines in the area of social acceptability.





GUIDELINE

MAKE THE MERN'S ROLES AND RESPONSIBILITIES IN THE AREA OF LAND USE PLANNING AND LAND MANAGEMENT BETTER KNOWN

The public knows little about the MERN's responsibilities in general. Its mission covers three sectors: energy, mining and land. The MERN is responsible for collecting and disseminating geoscientific data about Québec's land base and its mineral potential. Through strategic environmental assessments (SEAs), the MERN examines and describes the issues, impacts and benefits of emerging sectors, for example in the fossil fuel field. Well before specific projects are implemented to develop natural resources, the MERN is responsible for drawing up public land use plans (PATPs). Each plan sets guidelines for the use and protection of public land in an administrative region, taking into account development prospects, land uses and the concerns of the various players, while limiting land use conflicts between existing activities and future projects.

The MERN has responsibility for regulating land uses and the development of energy and mineral resources through a series of authorization processes. These include the issue of mining claims, licences to explore for petroleum, natural gas and underground reservoirs, mining leases, leases to produce petroleum and natural gas, vacation leases and contracts for the leasing of hydraulic power, and the approval of mine site rehabilitation and restoration plans. As part of its economic duties, the MERN must support projects to develop energy or mineral resources that are submitted by enterprises. For this purpose, it must advise and assist project promoters through all the steps leading to government authorization or to a refusal to issue a permit or grant a right. Through its strategic plan, website, guides to good practice, reference documents and list of "model projects", the MERN makes promoters, local authorities, stakeholders and citizens more aware of its responsibilities and roles.

GUIDELINE

MAKE THE MECHANISMS FOR LAND PLANNING AND LAND USE HARMONIZATION CONTAINED IN PUBLIC LAND USE PLANS (PATPS) MORE TRANSPARENT, PARTICIPATORY AND UP-TO-DATE

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As the custodian of the public land base, the MERN must protect its integrity, manage public land by granting land rights, monitor the occupation of public land, and plan land uses. For the planning and harmonization of public land uses, the MERN draws up a public land use plan (PATP) for each region and sets guidelines by identifying zones with a priority use, zones open to multiple uses, and protected zones. The current process used to draw up public land use plans mainly involves stakeholders, and offers no possibility for participation by individual citizens. The public land use plan is an indispensable element in the planning and harmonization of land uses prior to the implementation of any specific development project, and participation by the communities and citizens concerned must be part of the preparation process. This will ensure that the development issues of the communities affected and the concerns of their citizens will be taken into account, and will help identify any potential land use conflicts.

Based on a review of the first generation of public land use plans, the MERN intends to revise, simplify and update the process used to prepare, adopt and update each plan. Similarly, it will assess the need to broaden the scope of the public land use plan to take mining and energy activities into account more effectively. It also intends to examine the possibility of using the regional plans for public land development (PRDTPs), which currently cover wind energy and recreation and tourism projects, for other projects, and even of integrating them into the existing public land use plans (PATPs). The MERN must propose public information and consultation mechanisms that ensure participation by citizens, and also the representation of all stakeholders during the process used to draw up public land use plans.

GUIDELINE

ESTABLISH PREDICTABLE INFORMATION AND CONSULTATION PROCESSES AT ALL PROJECT STAGES

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Each project promoter has primary responsibility for providing information about its project and setting up a public consultation process. However, for Aboriginal communities, the obligation of consultation applies to the government, while the promoter is encouraged to establish a communication process based on transparency and the sharing of information. The MERN must provide support for the promoter's actions and ensure that, as early as possible in the project, the promoter seeks the input of local authorities, stakeholders and citizens in the community concerned. The following principles will be put in place to govern the information and consultation process:

- > The process must be launched as soon as possible, at the project design stage, rather than when the environmental impact assessment is submitted. The information and public consultation process applies throughout a project's lifecycle, and must ensure that all players in the host community are represented.
- > The MERN must provide accessible, user-friendly information about the project to make it easier to understand and disseminate the information in a transparent way not only on its website, but also directly to local authorities, local and regional county municipalities, and stakeholders, including citizen groups in the community concerned.
- > After the government issues authorization for a project, the MERN must organize a public feedback session in the host community to present the authorization conditions to citizens, and must ensure that the promoter presents the impact mitigation measures it has committed to applying; the MERN will be the last government department to issue the necessary permits.
- > The MERN must ensure that the promoter establishes a monitoring committee after obtaining the government authorizations needed to implement its project.

Using the provisions of the Mining Act, the MERN will ensure, at the project design stage, that the promoter has set up a liaison committee with local elected representatives in the community concerned to inform them periodically about the progress of the project. The MERN must specify to the promoter the information that must be provided as input for the public consultation process. Good practice guides and reference documents such as an information file on the project must be produced by the MERN and distributed to promoters, municipal authorities, stakeholders and citizens, to ensure that as many players as possible participate in the public consultation process in the host community. The production of these guides, and support from a project officer for each major project at the MERN regional office, will ensure that the MERN provides more effective support for the promoter and the municipal authorities at each stage in the information and public consultation process, and also for the other government departments involved. With respect to the specific consultation of Aboriginal communities, the current provisions of the Mining Act will be extended to the MERN's other sectors of activity. In addition, a guide for the consultation of Aboriginal communities for mining projects is currently being prepared. Once again, this guide will be extended to projects in other sectors under the MERN's responsibility.



GUIDELINE

PROMOTE THE SHARING OF BENEFITS FROM ENERGY AND MINING DEVELOPMENT PROJECTS WITH HOST COMMUNITIES



The benefits generated by a natural resource development project, whether in terms of local hiring, the procurement of goods and services in the community, or payments by the promoter to carry out community projects, are key elements of social acceptability for the host community. The establishment of training programs adapted to the citizens of the host community offers a way to increase the project's benefits for the community. The MERN still favours the signing of impact and benefit agreements between the promoter and the communities concerned, including Aboriginal communities. It intends to promote the maximization of the project's economic benefits in the host communities. For this purpose, the MERN can take advantage of the good practices and knowledge acquired from the current benefit-sharing mechanisms applied for wind farm and small-scale hydroelectric projects.

The recent 2016-2019 partnership agreement between the Québec government and municipalities will offer a concrete way to increase financial benefits for host communities. It adds \$10.2 million to the budget envelope available to share income from royalties on natural resources, which will now contain \$25 million per year for the period 2016-2019. This sharing of income has two components: the first for new mining projects that begin production in or after 2016, and the second covering existing projects that will be allocated to the regions in proportion to their gross domestic product from natural resource extraction. In its action plan on hydrocarbons released in May 2014, the Québec government reiterates its commitment to establish a royalty regime for hydrocarbon extraction. In addition, it has made a commitment to promote participation by Aboriginal communities in the economic benefits generated by natural resource development, and is assessing ways to achieve this objective.

The MERN will ensure a more transparent presentation of the economic and financial benefits of projects in the communities concerned, by releasing the content of agreements under the Act respecting transparency measures in the mining, oil and gas industries. The Act requires enterprises to file an annual statement declaring all payments made to various governmental authorities, whether local, regional, provincial, federal or Aboriginal. This level of transparency concerning the amounts paid by enterprises should help inform citizens and communities about the benefits of natural resource development projects and, as a result, enhance their social acceptability.



GUIDELINE

ENHANCE THE MERN'S ABILITY TO ANALYZE THE IMPACTS, ECONOMIC BENEFITS AND REPERCUSSIONS OF PROJECTS BY TAKING SOCIAL ACCEPTABILITY FACTORS INTO ACCOUNT

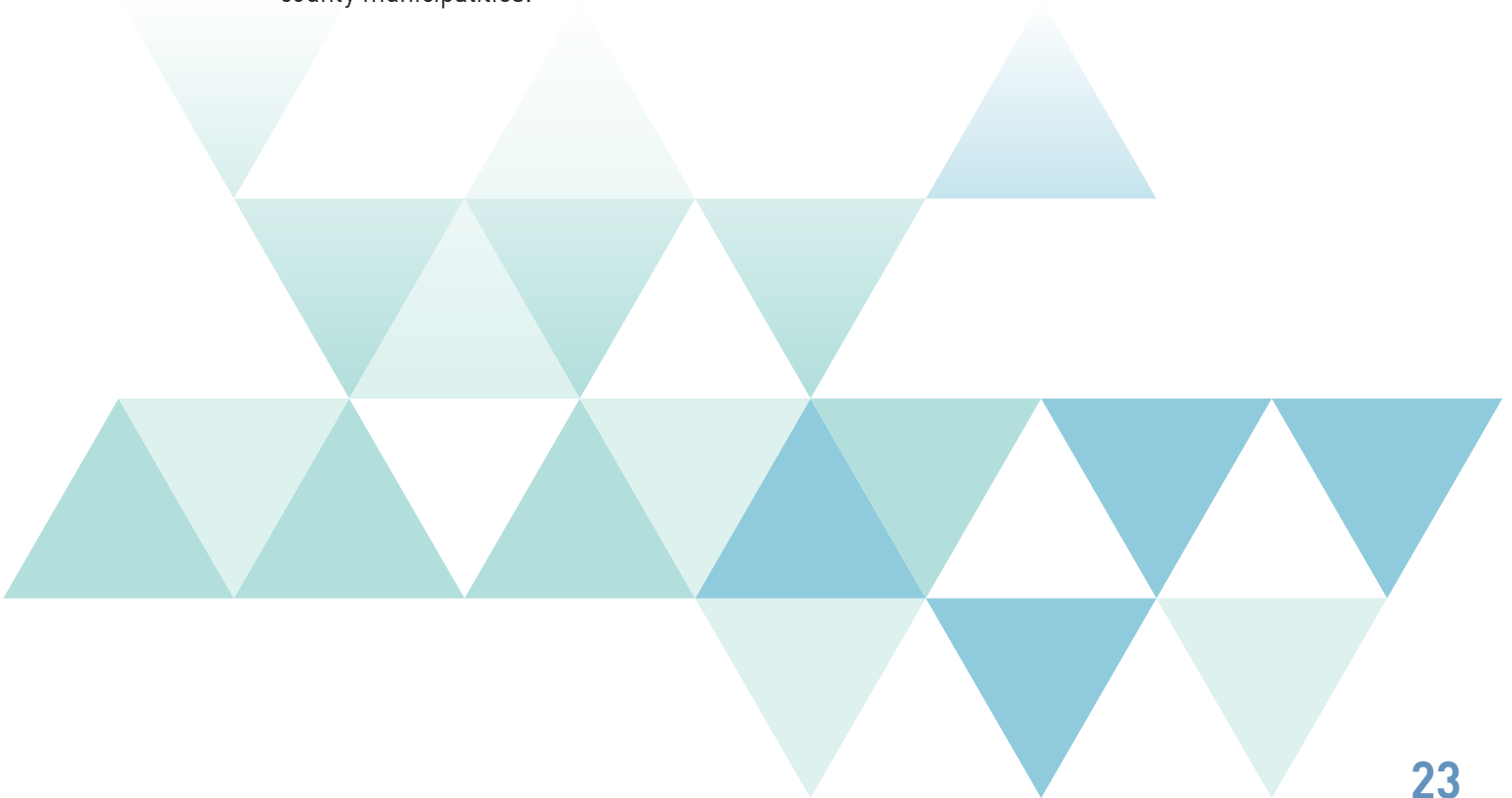
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The MERN currently has no tools to take into account and assess the various factors contributing to a project's social acceptability, either prior to the design stage or when land uses are planned and harmonized with various types of activity during the process to prepare the public land use plan (PATP). For land use planning, only recreational and tourism activities and wind farms are taken into account when assessing social repercussions. The possibility of taking into account the factors for the social acceptability of other activities under the MERN's responsibility, such as mining projects (including quarries and sand pits), should be considered. The MERN must be in a position to make a better assessment of the value of the information and public consultation process at all project stages.

It is also important to strengthen the MERN's capacity to analyze the impacts, economic benefits and repercussions of each project, in order to produce information documents and provide input for discussion by participants in the consultation process, and also local and regional elected representatives, concerning the scope of a development project. For this purpose, the MERN intends to set up an independent office to analyze the economic and financial benefits of major projects. The results for each project would then be released in the form of a project file.

To ensure that projects progress smoothly and that their issues are properly understood, and to support the work of the project officer in the regional office acting as the MERN's representative and guide for the promoter, the MERN is considering the possibility of setting up a major project office at its main offices in Québec. The office would coordinate the work of the various units responsible for issuing authorizations or guidance concerning the project, ensure inter-departmental coordination with the other government departments and bodies concerned, and make publicly available the project file and the results of the analysis by the independent office responsible for analyzing the economic benefits of each project. All of these measures would contribute to greater transparency and an enhanced ability to take social acceptability factors into account. They would also improve the quality of the participatory public consultation processes beginning at the project design stage, not only by ensuring that the promoter provides information for the host community but also by releasing the results of the MERN's analysis of all the project's repercussions and benefits.

In addition to strengthening its capacity to analyze project impacts and benefits, the MERN will have to improve its monitoring and follow-up mechanisms for the restoration of abandoned sites. Compliance, by the promoter, with the commitments made to restore a site after closure is an extremely important social acceptability element in natural resource development projects. Non-compliance with the commitments can damage the MERN's credibility concerning its ability or willingness to take responsibility as the custodian for the proper use of the land. In this connection the MERN, in accordance with the Mining Act, must ensure that enterprises deposit 100% of the amounts needed for site restoration during the two first years of operation. In addition to helping enterprises draw up their restoration plans, the MERN must, for monitoring and follow-up purposes, increase the resources devoted to the inspection of abandoned sites, in particular by calling on the communities concerned to provide assistance, for example through agreements with regional county municipalities.



CONCLUSION

Social acceptability for host communities is an essential element in projects to develop energy and mineral resources on public land in Québec, and in the harmonization of land uses. A project's social acceptability resides, in large part, in the participatory quality of the public consultation process, which allows the host community, and especially the local authorities, to participate at an early point in the design stage and at all subsequent stages in a project's lifespan. Participation by the host community is primarily a responsibility of the project promoter, but is also a responsibility of the MERN. The MERN must create the conditions needed for a true public consultation, analyze the project's repercussions and benefits, and support and ensure the quality of the dialogue between the promoter and the players in the host community, by providing relevant information in a clear, transparent and accessible form concerning the scope of the project submitted for public consultation, in order to ensure that the project and the regional issues are fully understood. These guidelines in the area of social acceptability propose some major changes and new approaches for the MERN. They will enable it to extend its leadership, intervene more effectively and pursue its mission, while reconciling its roles as the producer of information on the land base and its energy and mineral development potential, custodian and harmonizer of land uses, and guide for projects that will contribute to Québec's economic development.



APPENDIX 1

OVERVIEW OF GUIDELINES, OBJECTIVES AND ACTIONS

Guideline 1

Make the MERN's roles and responsibilities in the area of land use planning and land management better known

Objectif 1

Clarify the MERN's roles and communicate them more effectively, along with the analysis and management tools it uses

Action 1

Draft and implement a communications plan to publicize the MERN's roles and responsibilities, its legislative and regulatory framework, its goals, and the analysis processes and consultation mechanisms in effect

Guideline 2

Make the mechanisms for land planning and land use harmonization contained in public land use plans (PATPs) more transparent, participatory and up-to-date

Objectif 1

Bring planning closer to citizens

Action 1

Integrate public consultation stages into the process for drafting and updating public land use plans (PATPs)

Objectif 2

Review and improve regional planning tools

Action 1

Integrate public consultation stages into the process for drafting and updating public land use plans (PATPs)

Action 2

Review and simplify the process for drafting, adopting and updating public land use plans (PATPs)

Action 3

Assess the need to specify the scope of public land use plans (PATPs), in particular concerning activities relating to energy and mineral resources

Action 4

Prepare a report on regional plans for public land development (PRDTPs) and assess the possibility of integrating them into public land use plans (PATPs)

Guideline 3

Establish predictable information and consultation processes at all project stages

Objectif 1

Promote a more effective dialogue between promoters and communities

Action 1

Support the creation and operation of liaison committees for promoters and local players when projects to gather information on regional realities and local issues are at the design stage

Action 2

Ensure that a public consultation process is established by the promoter and adapted to the players in the community concerned

Action 3

Ensure the establishment and operation of monitoring committees from project implementation to site closure

Objectif 2

Increase the dissemination of information on projects and ensure more accountability

Action 1

Devote a section of the MERN website to the dissemination of information on projects, as soon as an application is received

Objectif 3

Increase the dissemination of information on industrial sectors

Action 1

Disseminate information on the energy and mining sectors

Objectif 4

Promote good practice by enterprises, citizens and communities in the area of social acceptability and land use harmonization

Action 1

Draft good practice guides

Action 2

Highlight exemplary projects by publicizing good practice

Action 3

Draft guidelines for use by promoters in developing projects that take their social acceptability factors into account

Objectif 5

Improve the MERN's participatory approach

Action 1

Establish a departmental policy for the consultation of local communities

Action 2

Establish an adapted MERN mechanism for the consultation of Aboriginal communities

Action 3

Establish a feedback mechanism for host communities to explain the conditions and terms of authorization of each project

Guideline 4

Promote the sharing of benefits from energy and mining development projects with host communities

Objectif 1

Increase the economic benefits for local and regional communities

Action 1

Establish worker training programs adapted to the citizens of the host community for a project

Action 2

Propose benefit-sharing mechanisms for communities hosting energy or mining development projects in their territory

Action 3

Develop a good practice guide for partnerships between promoters and non-Aboriginal communities

Action 4

Compile a report on the delegation of land management and experiences in the wind energy and small hydroelectric sectors and, if required, update the benefit-sharing mechanisms

Objectif 2

Disseminate more information

Action 1

Publish the amounts paid by enterprises to government bodies in accordance with the Act respecting transparency measures in the mining, oil and gas industries

Guideline 5

Enhance the MERN's ability to analyze the impacts, economic benefits and repercussions of projects by taking social acceptability factors into account

Objective 1

Ensure that the principles of sustainable development are taken into account when projects to develop public land and resources are at the design and analysis stages

Action 1

Create an office to analyze the economic impacts of projects (costs, benefits)

Action 2

Disseminate the analyses conducted by the MERN on the impacts and benefits of each project

Objectif 2

Provide support for citizens, promoters and communities during project development

Action 1

Establish a single access point to allow all stakeholders to obtain information and discuss projects through MERN regional offices

Action 2

Establish an office at the MERN to coordinate major projects

Action 3

Ensure that the MERN is present in the field for promoters and local authorities

Action 4

Increase and standardize MERN participation in information meetings for projects

Objectif 3

Increase the effectiveness and coherency of monitoring and follow-up activities

Action 1

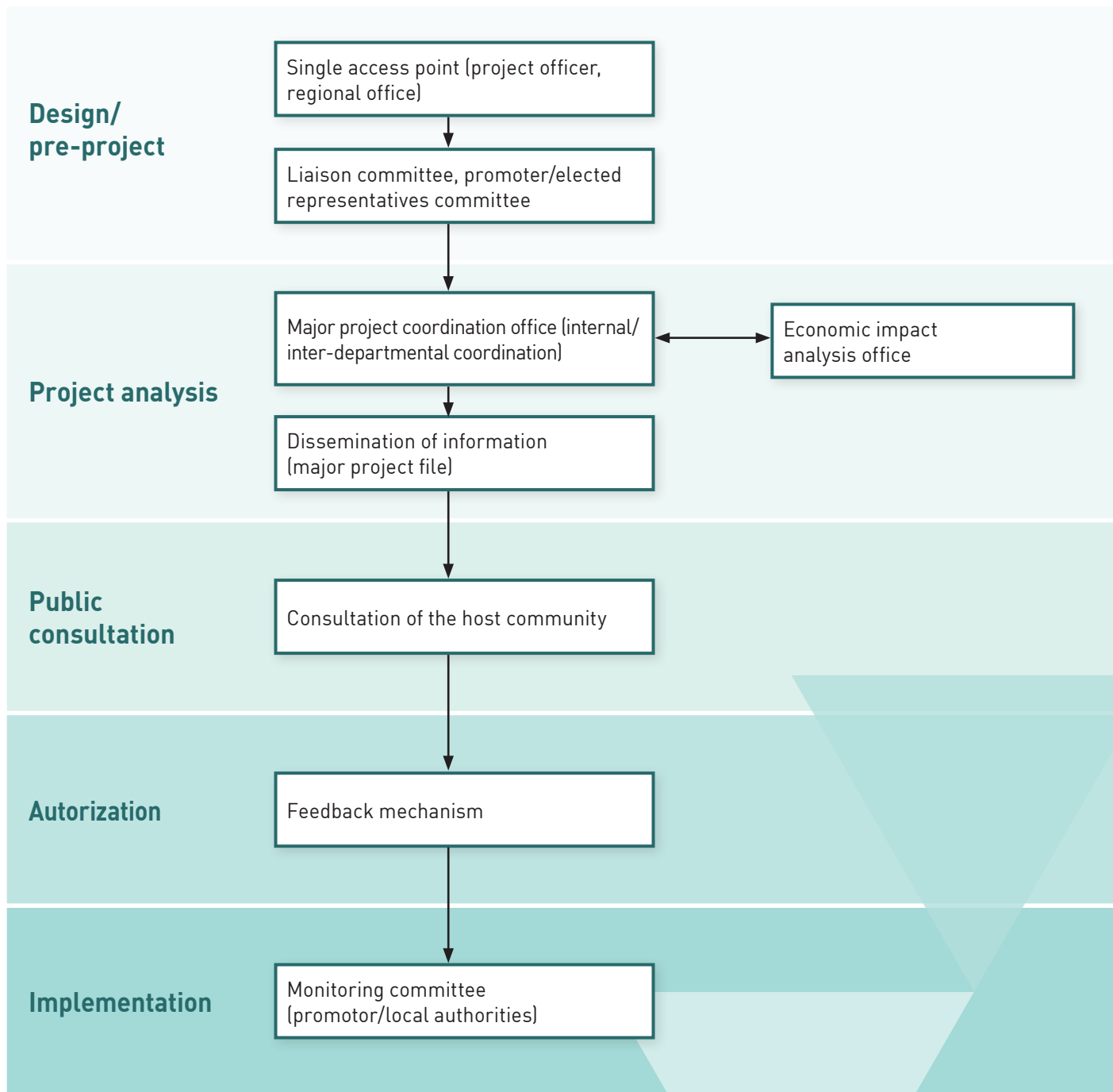
Improve the legislative and regulatory framework governing guarantees and protection for unforeseen project impacts, and the rehabilitation of closed sites

Action 2

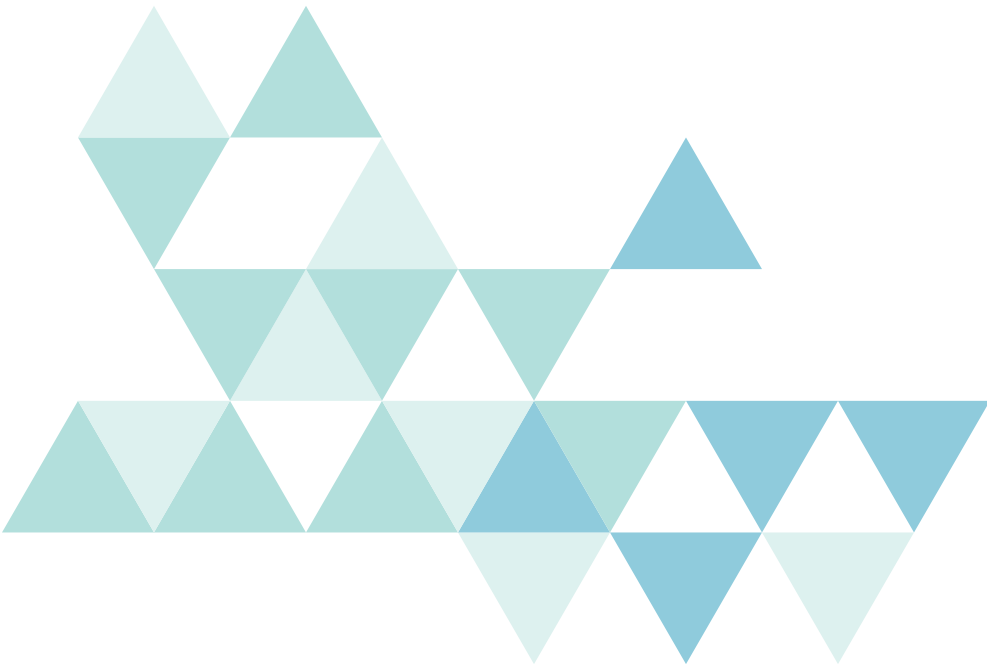
Strengthen monitoring and control measures for projects in the field, in particular by calling on the assistance of community players

APPENDIX 2

PROJECT PATHWAY*



* The fact that a promoter has set up a consultation process does not mean that the project will be automatically accepted and authorized by the government, since the process may lead to a refusal by the community to accept the development project



Énergie et Ressources
naturelles

Québec

