

Horizontal Evaluation of the Implementation of the Indigenous Advisory and Monitoring Committees (IAMCs) for the Trans Mountain Expansion and Line 3 Replacement Projects

Audit and Evaluation Branch
Natural Resources Canada
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Land Acknowledgement

The evaluation team and the evaluation’s horizontal working group acknowledge that the Trans Mountain Expansion and Line 3 Replacement projects continue to be highly contentious, with a great deal of resistance from Indigenous Nations and communities, as well as some non-Indigenous groups.

- Within the province of British Columbia, the Trans Mountain pipeline crosses numerous traditional territories and First Nation Reserves.
- Within the province of Alberta, the Trans Mountain pipeline and the Line 3 Replacement route span across multiple First Nations Traditional Territories of **Treaty 6 and Treaty 7**, and the **Métis Nation of Alberta** (Region 3).
- Within the province of Saskatchewan, the Line 3 Replacement route spans across the Traditional Territories from First Nations across **Treaty 6 and Treaty 4** and the **Métis Nation of Saskatchewan**.
- Within the province of Manitoba, the Line 3 Replacement spans across the Traditional Territories from First Nations across **Treaty 1 and Treaty 2 and the Métis Nation of Manitoba**.

We recognize that the Indigenous Nations within the colonial borders of Canada have lived on this Land, Turtle Island, and their respective territories for *time immemorial*. We conclude by recognizing that their languages, cultures, vibrant histories, and continuous stewardship over the land; enriches our communities and generations past, present, and future.

Recognition of Involvement

Led by NRCan’s Audit and Evaluation Branch (AEB), this evaluation used a participatory evaluation model which engaged key partners and stakeholders in the co-design and conduct of the evaluation. The evaluation was conducted by Innovation 7 (i7), an Indigenous-owned consulting firm specializing in program evaluation.

The evaluation team would like to extend our gratitude to the members of the Horizontal Working Group, members of the Indigenous and Federal Caucuses of the Indigenous Advisory and Monitoring Committee (IAMC)-Line 3 and TMX (the Committees) as well as IAMC Secretariat staff for sharing their world views, knowledge and experiences with us in support of the evaluation. Given the uniqueness of these Committees and in the spirit of co-development, the evaluation team made every effort to adapt and respond to the needs and concerns of both the Indigenous and Federal Caucus members of the IAMC- Line 3 and IAMC-TMX.

This evaluation report is a consolidation and reflection of what we heard from the members of the IAMCs, staff in all participating departments, Caucus resources and members of the potentially impacted Nations and communities who shared their experience and journey in the establishment and ongoing implementation of the IAMCs, as well as accessing IAMC funding and broader supports.

Terminology

The terminology associated with Indigenous peoples has changed several times over the past 150 years. As authors of this report, we recognize that language is fluid and can change over time. We also acknowledge that many Indigenous peoples self-identify and may not use the language or definitions identified in this report.

Acronyms

CCG	Canadian Coast Guard
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CER	Canada Energy Regulator (formerly National Energy Board [NEB])
Committees	IAMC-Line 3 and IAMC-TMX
CVA	Compliance Verification Activity
DFO	Department of Fisheries and Oceans
ECCC	Environment and Climate Change Canada
EM	Emergency Management
EMR	Emergency Management and Response
ER	Emergency Response
EPP	Economic Pathways Partnership
FAA	Financial Administration Act
G&Cs	Grants and contributions
IAMC	Indigenous Advisory and Monitoring Committee
IM	Indigenous Monitoring
IO	CER Inspection Officer
IPO-West	Indigenous Partnerships Office – West (NRCan)
L3RP	Line 3 Replacement Project
MMIWG	Murdered and Missing Indigenous Women and Girls
NRCan	Natural Resources Canada
P&E	Partnerships and Engagement (formerly IPO-West, NRCan)
PSPC	Public Services and Procurement Canada
SARA	Species at Risk Act
SESC	Socio-Economic Sub-Committee (IAMC-TMX Sub-Committee)
TC	Transport Canada
TMX	Trans Mountain Expansion Project
TMC	Trans Mountain Corporation
TRC	Truth and Reconciliation Commission
UN	United Nations

Executive Summary

About the Evaluation

This report presents the findings from the horizontal evaluation (evaluation) of the Implementation of the Indigenous Advisory and Monitoring Committees (IAMCs) for the Trans Mountain Expansion (TMX) and Line 3 Replacement (L3RP) Projects. The evaluation covers the period from 2016-17 to 2020-21 and is focused on the assessment of the relevance, continued need, performance, and impacts of the IAMCs. Data to inform findings was mostly collected between September 2021 and May 2022. As a result, the scope of the evaluation excludes consideration of more recent events and decisions with an implication on the design and delivery of the IAMCs (e.g., UN Declaration Action Plan released in June 2023).

The Indigenous Advisory and Monitoring Committees – A Unique Journey

The IAMCs are unique and innovative joint Indigenous and government advisory bodies. While the two IAMCs are separate and distinct, they are both expected to increase Indigenous involvement in the federal monitoring and oversight of a large energy project. Natural Resources Canada (NRCan) co-chairs both IAMCs and acts as a Secretariat to support their operations, including administration of the IAMCs' contribution funding programs. The Canada Energy Regulator (CER) is actively engaged in both IAMCs, including but not limited to supporting the delivery of the IAMCs' Indigenous Monitoring programs. Technical and scientific support is provided by NRCan, CER and, specific to IAMC-TMX, other federal departments involved in the major project (i.e., Fisheries and Oceans Canada, Canadian Coast Guard, Transport Canada, and Environment and Climate Change Canada).

Building trust-based, respectful relationships through an appreciation of differing world views and a process of co-development is critical to the success of the IAMCs. Likewise, co-developed with participation from the Indigenous and Federal Caucuses of IAMCs, this evaluation sought to balance and present the story of the establishment and implementation of the IAMCs as seen through these two very different world views and experiences.

What the Evaluation Found

Relevance

The evaluation found that the IAMCs are seen as an important step towards the achievement of the Government of Canada's commitment to Reconciliation.

There is a continued and ongoing need for the IAMCs given the federal government's commitment to implement the IAMCs over the life cycle of these energy projects. In addition, progress against the IAMCs initial objectives was slowed by the extensive co-development processes and COVID-19. It is expected that the IAMCs, as a mechanism that supports Indigenous monitoring of these major energy projects and advice to government, mitigate the impact of these projects on the environment and that potentially impacted Nations and communities will evolve over the life of the projects. While the IAMCs remain relevant, there is room for adjustment and improvement in their design.

Effectiveness: Achievement of Expected Short-Term Results

The IAMCs have effectively advocated for and advanced Indigenous concerns to the forefront of regulatory oversight of these large energy projects. A commitment to co-development and senior level engagement underscored the establishment of the IAMCs. These were critical foundations to developing understanding of each others' world views and building trust-based relationships. From the perspective of the IAMCs' Indigenous Caucuses, senior level of engagement has declined except for that of the Canada Energy Regulator.

The IAMCs are seen by Indigenous Caucus members and those reached through the evaluation's regional engagements as a positive step forward for the Crown in living up to its commitments, and as a more effective mechanism to support Indigenous engagement and the provision of advice and recommendations to federal regulatory bodies and decision-makers. However, there are differing visions on how the IAMCs need to evolve. There is a desire among Indigenous Caucus members to further evolve the IAMCs, whereas some Federal Caucus members see the IAMC continuing to be implemented as outlined in the co-developed TOR – at least until a new vision is jointly developed and endorsed.

The Indigenous Caucuses for both IAMCs have provided extensive advice and recommendations to the federal government. While the IAMCs have received responses to some of this advice, Indigenous Caucus members indicate that from their perspective the government has been slow to *formally* respond to the advice and recommendations put forward. This is impacting trust-based relations and leads Indigenous Caucus members to question the government's commitment to the IAMC process. As currently drafted, the IAMCs' TORs are unclear as to who has authority to make recommendations to government and how *consensus* is defined from the perspective of the IAMCs. This lack of clarity may contribute to the delays in formulating formal responses from federal departments.

The IAMCs have improved resourcing of Indigenous Nations and communities to develop the capacity for monitoring these energy projects through the creation of distinct Indigenous Monitoring programs. While these programs are seen as a significant and positive outcome from the IAMCs, challenges exist in relation to the initial and continuous training and retention of Indigenous Monitors (IMs). There is a desire among Indigenous Caucus members and IMs for further investment in the continued training of the IMs and creating more sustainable IM programs and positions.

Effectiveness: Achievement of Intermediate Outcomes

The IAMCs have led to a partnership-based approach among federal and Indigenous Committee members, including the co-development process for each Committee's Terms of Reference (TOR) and the development and implementation of the IM programs. However, more communication and outreach at the Nation or community level is required. Indigenous Caucus members of both Committees indicated they do not have the resources nor adequate time to effectively conduct outreach to all the Nations and communities with interest in the projects and are particularly challenged to reach those who are resistant to these energy projects and/or are disengaged from the IAMC process. It was noted that these voices and perspectives need to be heard by IAMC members and reflected in discussions with the federal regulators, although they may also be heard by federal departments when they engage directly with the rights holders. This underscores the complexity of the federal government's approach to engaging with Indigenous Nations and communities.

There is currently a lack of long-term funding for the IAMCs. This limits the ability of the Committees to make more strategic investments and is perceived by Indigenous Caucus members to be undermining the trust of Indigenous leaders in the federal government's commitment to continue to support the Committees for the life of these projects.

There is evidence that the IAMCs are driving broader systemic change including organizational change within the CER and expansion of the IM programs to other energy projects. The evaluation found that IAMC insights have been reflected in broader federal government reviews such as the National Inquiry into Missing and Murdered Indigenous Women and Girls (MMIWG). However, members of the Indigenous Caucus of the IAMC-TMX expressed disappointment that IAMCs have not been established for other large energy projects recently approved by the federal government.

Effectiveness: Progress Towards the Achievement of Long-Term Outcomes

The IAMCs are seen as a significant improvement in how Indigenous peoples are engaged – specifically the recognition of the right of potentially impacted Indigenous Nations to be involved in the regulatory review and oversight processes for large energy projects in Canada. The IAMCs allow for a number of issues which are not rights-based to be resolved.

The evaluation found that, as a result of the IAMCs, Indigenous leaders engaged in the evaluation indicated having increased comfort and confidence in the regulatory process. The IM programs are viewed as an essential component of the IAMCs, as these have built capacity of potentially impacted Nations and communities to have their people on the ground monitoring the projects and reporting back to community leaders and IAMC representatives.

Indigenous Caucus members indicated that the development and progress along each energy Line, for both projects, would likely have not been as great without the IAMCs.

Efficiency

The IAMCs are generally viewed as having the right composition and structure. There is a desire among Indigenous Caucus members – particularly from the IAMC-TMX – for stronger governance processes, practices, and knowledge management of IAMC documents. There is general agreement among federal partners and representatives from the IAMC Secretariat that governance processes should be strengthened including IAMC meeting structure, discipline, and planning that adequately reflects annual resource levels. Indigenous Caucus members of both Committees desire greater delegation of authorities and decision-making.

The evaluation found that the IAMC Secretariat is not operating optimally. Given the lack of permanent funding, NRCan's IAMC Secretariat is staffed using temporary staffing measures and increasingly with junior, less experienced staff. There has also been a high level of turnover in senior staff. These factors, combined with a lack of forward planning that allocates resources to priorities, have contributed to an inability to fully support the expectations of the IAMCs' Indigenous Caucuses. This has led to rising tensions and increasing pressure on Secretariat staff, possibly contributing to the high level of turnover among staff in the Secretariat and those delivering the contribution program and, ultimately, diminishing levels of trust. Given these challenges, the IAMC-TMX Indigenous Caucus has advocated for the Secretariat to be transferred outside of government – reporting directly to the Indigenous Caucus. Indigenous Caucus members of the IAMC-Line 3 are supportive of a separate Indigenous Secretariat, but not necessarily outside government.

Indigenous Caucus members of the IAMC-TMX and a few members of the IAMC-Line 3 Indigenous Caucus perceived that the administration of the contribution program continues to be paternalistic and controlled by government, and does not reflect commitments to Reconciliation and self-determination. NRCan staff within the IAMC Secretariat and those delivering the contribution program find that the financial systems used by NRCan are not sufficient to support a complex horizontal initiative like the IAMCs. In addition, the different financial systems and processes for tracking activities and performance results used by each participating department and lack of requirement to report horizontally on their IAMC activities and spending makes it difficult to track overall IAMC spending and results.

Measurements, Processes and Tools to Support the Assessment of the IAMCs Impact

There is evidence that processes and tools have been developed to support the IAMCs, but more is required. The IAMC contribution agreements have supported Indigenous access to information (such as mapping of sites of

significance), tools and/or other resources regarding energy infrastructure development. Federal technical support to the IAMCs is also provided by a number of federal departments.

Departments are using a number of performance measurements and indicators to track progress under the IAMCs but this information is not shared at the IAMC tables. Indigenous Caucus members questioned whether the IAMC logic model includes the right outcomes and performance measures – specifically, the current logic model was seen as not accurately reflecting the outcomes expected by potentially impacted Nations and communities. This presented challenges in the conduct of this evaluation.

Supporting Diversity and Inclusion

The evaluation found that the IAMCs have achieved their founding goal of establishing a committee with membership from diverse and balanced representation including across genders as well as members from both First Nations and the Métis Nation. Some interviewees noted that the Committees should have more involvement from youth, Elders, and Knowledge Keepers.

Both Committees are focused on addressing socio-economic risks and priorities associated with the energy projects. IAMC-Line 3 is focused on increasing Indigenous participation in the economic opportunities associated with the energy project and monitoring whether the project has successfully delivered on promised economic benefits. The IAMC-TMX has called for greater planning and monitoring of socio-economic effects of the pipeline.

The potential for the sharing of economic benefits and economic reconciliation was a significant factor in attracting representatives of the potentially impacted Nations and communities to be involved in the IAMC co-development process. Data published by the proponents for each major project indicates that impacted Nations and communities have benefited from these large energy projects. However, the Indigenous Co-Chairs of both Committees have raised concerns, including to the Minister of Natural Resources, that there continues to be an unequal access to key programs and opportunities to share benefits. Supported with funding from Budget 2022 (\$103.4 million over five years, starting in 2022-23), NRCan has more recently committed to work with federal partners to develop a new National Benefits-Sharing Framework for major resource projects located on Indigenous territory.

Lessons Learned

The evaluation found that there are a number of factors that supported or deterred the achievement of the IAMCs' results as well as several lessons learned related to establishing these types of joint Indigenous-government advisory and monitoring bodies. It takes time to support co-development and build positive, trust-based relationships. This reality needs to be reflected in the timelines when establishing similar committees in the future.

In advancing Reconciliation, words matter. For the Indigenous Caucus members, terms such as “life of the project”, “whole of government” and “horizontal initiatives” are interpreted to mean a commitment, by all of government, to work together with Indigenous partners across the life of the projects towards meaningful Reconciliation and shared benefits. Shared understanding and common agreement on these terms is foundational to building trust-based relationships, as is senior level commitment to the shared work and outcomes of the IAMCs.

As new, horizontal advisory bodies, there is a sense that Indigenous Caucus members would benefit from introductory training on subjects such as the machinery of government, the budget process, and accountability requirements under the *Financial Administration Act (FAA)*. Training would also be beneficial for federal representatives in line with Call to Action #57 of the Truth and Reconciliation Commission and in understanding the

impacts of inter-generational trauma. In addition, at the early stages of establishment, Committee meetings and members may benefit from a facilitator who could help members move through the challenging stages of group dynamics towards trust-based relationships where committees are working to their full potential.

Additional consideration should be given to the role of the secretariat that would support such joint Indigenous-government advisory and monitoring bodies and ensuring it is adequately staffed and resourced to carry out its mandate.

Recommendations and Management Response

The recommendations presented here were developed by the evaluation team. Given that the IAMCs are a horizontal initiative with several federal departments and Indigenous partners, all parties were engaged in the development of the evaluation and the Management Response and Action Plan. The actions outlined in the Management Response and Action Plan will be delivered jointly by federal departments and the IAMCs. A summary of the management response and action plan follows. A more detailed table of management actions, include all milestones and positions responsible, is presented in Appendix D.

A Message from the Chairs of the Indigenous Caucus, IAMC-TMX and IAMC-Line 3

We are pleased to provide comments for the Management Response and Action Plan (MRAP) to the Evaluation for the Indigenous Advisory and

Monitoring Committees (IAMCs) on major projects. Although the IAMCs focus on condition compliance for different projects, and involve different regulators, the framework of federal laws, regulations and policies that govern oversight of project construction and operation are common to both – in fact, all – projects involving federal regulation.

“We have to prepare ourselves for a lifetime of protecting.”

John Etzel, TSAWOUT First Nation

Scholar John Gaventa, in his writing on “Finding the Spaces for Change: A Power Analysis”, speaks to three types of spaces: closed, invited, and created. For Indigenous peoples, regulatory oversight of major projects occurs primarily in closed spaces: there is little to no active participation by Indigenous people. Occasionally, we see invited spaces: Indigenous people may participate, but only by invitation of Crown decision-makers. In invited spaces, Indigenous peoples are given limited or no opportunity to co-design or shape the space in which participation happens. Despite best intentions, the IAMCs largely function as invited spaces, because change in regulatory frameworks only happens according to federal priorities and timelines.

Both of our respective Caucuses have continuously made clear the desire to build created spaces: where Indigenous led decision-making takes place in spaces created by Indigenous peoples. This goal is articulated throughout the Evaluation Report.

Our MRAP response is: we need to do more, be more and be better in building created spaces for Indigenous expertise and excellence in oversight of major projects. This is the mandate we have from communities across the pipeline and marine shipping routes impacted by the TMX and Line 3 projects. We have repeatedly heard from communities that they do not have trust in oversight of major projects unless Indigenous peoples are involved, every step of the way.

A regulatory system is weak if it does not inspire trust. We will continue working with federal regulators to identify gaps in regulatory systems, where Indigenous regulatory authorities could complement or provide alternatives to existing federal frameworks. We look forward to the work ahead.

Raymond Cardinal

Chair, Indigenous Caucus
Indigenous Advisory and Monitoring Committee on Trans Mountain

Richard Aisaican

Chair, Indigenous Caucus
Indigenous Advisory and Monitoring Committee on Line 3

Recommendations and Management Response and Action Plan

Recommendations	Management Response and Action Plan
<p>Recommendation 1: It is recommended that each IAMC, led by the co-chairs, undertake strategic discussions to seek agreement on the vision for the IAMCs going forward, including areas for shared decision making and future co-development. This vision should drive discussions on the most appropriate model for each IAMC, including the expected participation and senior level commitment from each participating federal department, and changes should be reflected in the TOR as required.</p>	<p>Management agrees. The development of the future vision of Line 3 and TMX IAMCs is underway. Discussions will continue, including regular engagement and outreach events with leadership from impacted nations. In response to Recommendation 1:</p> <ul style="list-style-type: none">• Engagement with impacted nations will continue and will inform the future of the program.• Going forward, conversations will include factors such as how the secretariat role is administered, the proportion of funding for community project work, and the makeup of Indigenous Caucus, and Monitoring support workforce (such as employers, program officers, IT, Admin support, etc.).• The Terms of Reference for both IAMCs will undergo a strategic review, with updates as required, including defined clarity around participation and commitment from the CER and other federal departments. Other amendments will include lessons learned, updates to the delivery model, including (but not limited to), funding, governance, and areas of work. <p>Target Completion: November 2024</p>

Recommendations	Management Response and Action Plan
<p>Recommendation 2: It is recommended that CER, in conjunction with the IAMCs, continue to evolve and develop more sustainable Indigenous Monitoring programs for the IAMCs, ensuring consistency in pay, continued investment in skills development, and managing the expectations of IMs as to the sustainability of these positions.</p>	<p>Management agrees with the recommendation to evolve and co-develop the IM profession. It is essential that the development of Indigenous Monitoring as a profession remain within the purview of Indigenous Subject Matter Experts. The CER aims to collaborate effectively by cultivating and sustaining relationships and providing long-term opportunities for Indigenous Monitors. Furthermore, the CER supports the IAMCs in establishing parallel relationships with other government departments to expand the scope of Indigenous Monitoring. The action plan in response to Recommendation 2 includes:</p> <ul style="list-style-type: none"> • Development of a strategic plan to create a credential for Indigenous Monitoring and its implementation. • Sharing of lessons learned from terrestrial to marine monitoring and participation of Indigenous Monitors in providing expert advice towards the advancement of regulatory regimes. • Development of CER's National Strategy for Indigenous Monitoring. Since the inception of the IAMCs, the CER has been building internal capacity to support the evolution of these programs. Following the 2021 commitment to develop a National Strategy for Indigenous Monitoring within CER's scope, progress has been made in terms of resource allocation and research, leading to the initial development of the engagement framework. This framework will focus on the structures and goals for the CER in their relationship with IMs, but not on the IM profession. The framework development encompasses data collection and reporting mechanisms to ensure IAMC is involved and informed throughout. Similarly, the CER has recruited and trained two former IMs with the goal of achieving Inspection Officer designation, potentially contributing to the development of sustainable career paths for IMs. CER will maintain adequate staff and support for IM Programs throughout the development of the framework. <p>Target Completion: March 2025</p>
<p>Recommendation 3: It is recommended that the IAMCs and federal government develop a shared definition for "consensus" in relation to <i>advice and recommendations to government</i> and the conditions for the government's responses, as well as a formal process to support the intake and tracking of IAMC advice and recommendations to government (e.g., acknowledging receipt of advice/recommendations; clarifying areas where the IAMCs can provide advice/recommendations; a commitment to the timelines for the government to respond to IAMCs' advice/recommendations once received; and finally tracking of response back to the IAMCs).</p>	<p>Management agrees. As part of strategic plan development (recommendation #4), both L3 and TMX IAMCs will articulate the long-term strategy, which will help guide the advice. The action plan in response to Recommendation 3 includes:</p> <ul style="list-style-type: none"> • Implementation of an appropriate, accessible communication loop and resources to ensure advice can be received and responded to for both IAMCs. The receiver of advice should adhere to a timeline for sharing responses. Advice should be collected into a 'parking lot' and a strategy developed to organize discussions on 'parking lot' items to resolve issues. • During on-going work planning, both IAMCs will redevelop a performance measurement framework, including meaningful key performance indicators (KPIs) and service standards regarding responses. • A common understanding and principles of consensus will be included in the revised Terms of Reference (link to recommendation #1). <p>Target Completion: November 2024</p>

Recommendations	Management Response and Action Plan
<p>Recommendation 4: In the spirit of a commitment to the life of the project, it is recommended that each IAMC develop a long-term strategic plan which identifies its vision, ultimate outcomes, and strategic priorities focused on the longer-term nature of these projects. These long-term strategic plans should each be supported by a five-year investment plan and annual work plans that identify priorities, commitments and expected outcomes based on approved funding levels, as well as the allocation of resources to deliver on the annual plans.</p>	<p>Management agrees. In response to Recommendation 4, both the TMX and Line 3 IAMCs are having long-term strategic planning discussions as part of planning for work over the next five years. In response to Recommendation 4:</p> <ul style="list-style-type: none"> • [REDACTED] • The Committees will produce work plans to identify annual priorities. Workplans will be based on broader strategic goals and key pieces of work endorsed by Indigenous Caucus and will incorporate results of Line 3 and TMX regional engagements. <p>Target Completion: November 2024</p>
<p>Recommendation 5: It is recommended that NRCan initiate discussions regarding longer term funding arrangements such as the establishment of the IAMCs as an ongoing initiative with permanent funding or longer term (e.g., 10-year) contribution funding. Alternative funding arrangements would be required should a decision be made to move the IAMC Secretariat to an external, Indigenous led body.</p>	<p>Management agrees. Impacted Nations have expressed their long-term goal of establishing a financially independent Indigenous Energy Regulator, supported by implementation of the United Nations Declaration on the Rights of Indigenous Peoples Act (UNDA). Governance discussions will inform measures to be written into IAMC Terms and Conditions for Grants and Contributions in the future. Exploratory steps in response to Recommendation 5 will include:</p> <ul style="list-style-type: none"> • Direct conversations between Indigenous Caucus, leadership and central agencies, informed by Government funding decisions. • Participation in the implementation of UNDA Action Plan Measure 34. • Participation in the development of Indigenous Ministerial Arrangements Regulations (IMARs). • A long-term strategy plan that clarifies scope of work (i.e., what work would be considered beyond TMX / Line 3 program authorities), and other CER regulated projects. • Investigating examples that exist for securing long-term funding arrangements, informed by Government funding decisions. <p>Target Completion: June 2024</p>
<p>Recommendation 6: It is recommended that NRCan, in collaboration with the IAMCs, conduct a governance review to identify and prioritize IAMC governance policies, procedures and practices that require strengthening and develop a plan to address any gaps. Further, it should ensure that all information related to the IAMCs' operations are located on an accessible and shared drive and Committees are provided with regular financial updates. The latter would require all participating departments to consistently track and report at least annually on their IAMC spending, progress on results and barriers to results achievement.</p>	<p>Management agrees. In response to recommendation 6, both Line 3 and TMX IAMCs will complete a review of Committee and Subcommittee governance policies, procedures, and practices, identifying strengths and opportunities for improvement, and making updates to IAMC policies, procedures, Terms of Reference, Program Terms & Conditions, and other measures as needed to better align with priorities.</p> <p>Target Completion: March 2027</p>

Recommendations	Management Response and Action Plan
<p>Recommendation 7: The IAMCs' purpose, work, and funding opportunities need to be more effectively communicated to potentially impacted Nations and communities. Therefore, NRCan should ensure the Indigenous Caucuses are effectively resourced to undertake in-person and virtual engagement with members of the potentially impacted Nations and communities.</p>	<p>Management agrees. In 2022, both IAMCs adopted a more responsive funding model that supports increased capacity for Indigenous Caucus staffing and outreach programs for Indigenous Caucus to have meaningful communication with potentially impacted communities. Strategic and adaptive use of social media and other technical tools will continue to be used to enhance the awareness of the IAMCs among impacted nations. The plans for both IAMCs to implement decisions in Budget 2024 will be co-developed. This will confirm costs, timeframe, and inform future planning decisions.</p> <p>Target Completion: December 2024</p>
<p>Recommendation 8: NRCan should undertake discussions with IAMC members to determine where the IAMC Secretariat should be placed to ensure effective operations and results achievement. Should the decision be made to continue with the Secretariat housed within government, it is recommended that NRCan, in discussion with IAMC members, develop a staffing plan for the Secretariat (including the G&Cs unit) with the required positions, levels, competencies and skills to support each IAMC. In staffing the Secretariat, preference should be given to Indigenous employees. Given the long-term nature of these Committees, NRCan should seek approval to staff the Secretariat using permanent staffing measures.</p>	<p>Management partly agrees. In response to Recommendation 8, NRCan will continue to develop effective Secretariat teams through the attraction, recruitment, retention, and development of staff for this unique work. Preference will be given to Indigenous employees. The IAMCs, as part of the overall governance review within long-term strategic planning for the IAMCs, will examine the implications and resources required for an externally placed Secretariat, with clear roles and responsibilities (see Recommendation #5).</p> <p>Target Completion: November 2024</p>
<p>Recommendation 9: It is recommended that NRCan, working with representatives of each IAMC, review from an Indigenous lens (e.g., Indigenous world views), co-develop and reframe the IAMC logic model as required. This review should seek agreement on the IAMCs' expected outputs and outcomes, key performance indicators and timing for data collection to inform ongoing monitoring and evaluation, and future evaluation framework.</p>	<p>Management agrees. The action plan in response to Recommendation 9 includes the following actions:</p> <ul style="list-style-type: none"> • Co-developing a logic model would support future evaluations, as well as the performance framework referenced in response to Recommendation 3. Input from impacted nations is also required - a new logic model could be a topic for future regional or line-wide engagement events (Recommendation 7). • For advice on a culturally appropriate logic model, the IAMCs will develop Elder and/or Youth working groups. These working groups or circles may also provide guidance on the overall strategic plans and governance models in Recommendation 4. <p>Target Completion: November 2025</p>

Recommendations	Management Response and Action Plan
Recommendation 10: It is recommended that NRCan monitor and report on the economic benefits that are realized by potentially impacted Indigenous Nations and communities from these large energy projects.	Management partially agrees. Financial reporting that is meaningful and accessible is what nations are asking for, however, total economic benefits that are realised by potentially impacted Indigenous Nations are often included in confidential agreements between the proponent and the Nation. It may be possible to compel proponents to share the number of agreements, but this may not meet the expectations of potentially impacted nations. Management actions in response to Recommendation 10 include: <ul style="list-style-type: none">• A scan of all IAMC G&C dollars (current and from the start of the IAMCs) including information about community impact and benefits will be collated into a dashboard, and then published to both IAMC websites as part of on-going updates to impacted nations.• The National Benefits Sharing Framework (NBSF) is currently being developed and indicators to measure the success of its implementation will be established following engagement with key stakeholders and the development of the Framework’s key components with Indigenous groups.• TMX-IAMC has already begun a program around IAMC socioeconomic monitoring, and this will be completed by Summer 2024. Target Completion: December 2025

Purpose of the Report

This report presents the findings from the horizontal evaluation (evaluation) of the Implementation of the Indigenous Advisory and Monitoring Committees (IAMCs) for the Trans Mountain Expansion (TMX) and Line 3 Replacement (L3RP) Projects. The evaluation covers the period from 2016-17 to 2020-21. The evaluation is focused on the assessment of the relevance, continued need, performance, and impacts of the IAMCs.

This evaluation is the first of its kind at Natural Resources Canada (NRCan) to be based on the principle of co-development with Indigenous peoples.

Indigenous Advisory and Monitoring Committees – a Unique Journey

The Indigenous Advisory and Monitoring Committees are unique and innovative joint Indigenous and government advisory bodies. It is essential to the IAMCs for all parties to understand differing world views as an important component in achieving cultural and historical understanding and in building respectful relationships.

The root of worldviews is differing approaches to knowledge, connectedness, and science. Indigenous cultures focus on a holistic understanding of the whole that emerged from their existence and experiences. For Indigenous peoples, the focus is on protecting their history, culture, language and environment for a minimum of seven generations. Governments operate within a different system constrained by time, financial resources and requirements in relation to public interests, financial management, procurement, engagement, balanced interests, delegated authorities and approvals. Understanding of these worldviews based on the history of these relationships, both past and present, is essential to all parties involved.

Co-developed with the Indigenous and Federal Caucuses of IAMCs, this evaluation sought to balance and present the story of the IAMCs as seen through these two very different world views and experiences with establishing and implementing the IAMCs.

IAMCs Initiative Profile

Background

First Nations, Inuit and Métis peoples in Canada have unique rights that are guaranteed under section 35 of the *Constitution Act, 1982*. Section 35 recognizes and affirms the existing Aboriginal and treaty rights of Indigenous peoples.¹ Canadian courts have established that the Crown has a legal duty to consult with Indigenous peoples whenever the Crown contemplates a conduct that may impact on their rights protected under section 35 which includes, where appropriate, mitigation measures or accommodation. Meaningful consultation with Indigenous peoples is required before making decisions that might negatively impact these rights, such as building a pipeline across Indigenous lands. In addition, the Government of Canada committed to the implementation of the United Nations Declaration on the Rights of Indigenous Peoples (UN Declaration). Consultation is a key part of the UN Declaration.

The CER Act came into force on August 28, 2019. Prior to this date, the National Energy Board (NEB) Act was in effect.

Throughout the report, we refer to the organization as the CER recognizing that, during some of these timeframes, the organization was operating as the NEB.

In 2016, the Government of Canada first announced the approval of both the Trans Mountain Expansion project (twinning the existing Trans Mountain pipeline and expanding the Westridge Marine Terminal) and the Line 3 Replacement project (replacing the existing pipeline with a new pipeline built to modern specifications). Accompanying these announcements, the Minister of Natural Resources committed to greater Indigenous participation in the oversight of these energy projects, beginning with the establishment and co-development of an Indigenous Advisory and Monitoring Committee (IAMC) for each.

While each IAMC was expected to operate independently, the goal of both IAMCs is to bring together Indigenous and federal leaders to provide advice to regulators and to monitor the respective pipeline projects, including increased Indigenous involvement in the federal monitoring and oversight. The IAMCs were expected to form the basis of a new relationship between Indigenous peoples and the Government of Canada with respect to these energy projects, existing pipelines and associated shipping lines.

With existing and new authorities and resources, it was planned that the IAMCs would:

- Provide the opportunity for potentially impacted Indigenous peoples to participate meaningfully in the co-development and co-implementation of the IAMCs;
- Provide a forum for the communities to engage with federal regulators and governments; and
- Allow potentially impacted Indigenous peoples to participate in the monitoring and provision of advice to regulators over the full lifecycle of the projects, including construction, operation, and decommissioning.

Energy pipelines can be divisive in Canada for both Indigenous and non-Indigenous peoples who are often divided between those who want to protect the environment and those who see the pipelines as an area of economic development and a way to alleviate poverty, particularly among Indigenous Nations and communities. It is often challenging to find common ground between these opposing views. Both projects were and continue to be highly contentious, large energy projects that faced resistance from First Nations and the Métis Nation. For the L3RP, there was resistance along the Line including protest camps that formed to oppose the project. For TMX, the project faced a great deal of resistance from both Indigenous communities and Nations and non-Indigenous

communities. In April 2018, Kinder Morgan Canada Inc. (the proponent at the time) suspended all non-essential activities and related spending on the Trans Mountain Expansion project in the face of opposition. In response, the federal government purchased the project for \$4.5 billion in May 2018.

While both the TMX and L3RP projects are expected to have adverse environmental impacts, the Government of Canada approved the projects as being in the public interest and deemed that these effects can be justified in light of the considerable expected benefits of the projects and measures proposed to mitigate the effects (including Indigenous accommodations). ² In making its decision to approve these projects, the government took into consideration a wide variety of information including but not limited to the results of environmental assessment processes and Crown consultations with potentially impacted Indigenous peoples. Numerous conditions have been imposed on both projects to ensure the mitigation of adverse effects and accommodation measures developed with Indigenous groups are being implemented.

Critical to the establishment of the IAMCs was that Indigenous *participation is without prejudice* meaning that participation in the IAMCs by Indigenous members was not to be construed as either supporting or opposing these energy projects nor does it change the Government of Canada’s duty to consult.

IAMC Governance and Distinctions

There are two separate, distinct IAMCs – each with its own governance structure. Both Committees are co-chaired by a representative from each respective IAMCs’ Indigenous Caucus and NRCan. Each Committee is guided by a Terms of Reference (TOR), which includes the vision, mandate, governance, etc. The TORs for both committees were co-developed between government, Indigenous leaders and representatives of the potentially impacted Indigenous communities through a series of Line-Wide and regional engagements.

Each IAMC is comprised of:

- **The Main Committee** composed of Federal Caucus and Indigenous Caucus members.
- **A federal Secretariat** to support the Committees, staffed by government employees and contractors under the Partnerships and Engagement (P&E) branch within NRCan’s Nòkwewashk sector. This includes a dedicated Grants and Contribution (G&Cs) Unit which oversees the administration of the IAMCs’ contribution programs.
- **Federal technical support** is provided to both Committees by the federal departments involved (see Table 1). Funding was also made available to most of these departments and agencies to carry out this role.
- **Sub-Committees** in place for both IAMCs. This is where the majority of technical support and expertise is provided (see Table 1).

While presented as a single evaluation, there are important differences in the design, structure, implementation and performance of the two IAMCs (see Table 1). This evaluation has made every effort to identify differences between the two IAMCs including planning, structure, implementation and results.

Table 1: IAMC Distinctions

About the Project

Areas	IAMC-TMX	IAMC-Line 3
Purpose of Major Energy Project	Twinning of the existing pipeline and expansion of the Westridge Marine Terminal in order to increase the capacity of the pipeline system.	Replacement of existing pipeline with a new pipeline built to modern specifications.

Areas	IAMC-TMX	IAMC-Line 3
Proponent (Responsible for the Project)	Trans Mountain Corporation (a federal Crown corporation)	Enbridge Inc. (private sector)
Project Location	TMX spans two provinces (Alberta and BC) through both terrestrial and marine environments.	L3RP spans three provinces: Alberta, Saskatchewan, and Manitoba.
Implicated Indigenous Nations and Communities ³	129 potentially impacted Indigenous Nations and communities on the Crown consultation list for TMX	109 potentially impacted Indigenous Nations and communities on the Crown consultation list for L3RP

About the Committee

Areas	IAMC-TMX	IAMC-Line 3
Timing of IAMC Implementation	IAMC created prior to start of construction on the project.	When the IAMC-Line 3 was first established, construction was completed in Alberta, with continued construction activities across Saskatchewan and Manitoba, in addition to decommissioning across all three segments crossing Alberta, Saskatchewan and Manitoba.
IAMC Membership	13 Indigenous members and 6 senior federal government representatives.	16 Indigenous members and 2 federal government representatives
Appointment of Indigenous Caucus	During the TOR co-development process, representatives of Indigenous leadership held regional meetings where community representatives selected members to represent their region as a member of the Indigenous Caucus of the IAMC. Nominations were open until each nominee had an opportunity to speak about their desires and goals to be a representative of the potentially impacted Nations, communities and the Métis Nation in each designated region. Some members were voted in, others acclaimed.	While the specific process varies somewhat based on region (province) and between First Nations and Métis Nation, the process to appoint members is coordinated by the IAMC-Line 3 Secretariat. Depending on the region, there is either a call to Indigenous leadership for nominations or appointments, and there may also be a vote by leadership. The Secretariat circulates a notice of names to seek confirmation by Indigenous leadership.
Federal Departments and Agencies (Federal Caucus)	<ul style="list-style-type: none"> • NRCan • CER • DFO • CCG • TC • ECCC 	<ul style="list-style-type: none"> • NRCan • CER

Areas	IAMC-TMX	IAMC-Line 3
Sub-Committees	<ul style="list-style-type: none"> • Indigenous Monitoring • Marine Shipping • Socio-economic • Engagement • Policy Table • Emergency Management • Operations ⁴ 	<ul style="list-style-type: none"> • Indigenous Monitoring • Emergency Management • Communications and Engagement • Training and Capacity Building
Committee Operations and Supports	Sub-Committees include IAMC and non-IAMC members.	Sub-Committees include IAMC members and non-IAMC members..

IAMC Initiative Resources

In 2016, the federal government allocated a total of \$101.7 million to the IAMCs initiative over a six-year period, from 2016-17 to 2021-22. This amount included \$2.5 million in existing funds to support the IAMC co-development process (that took place in 2016-17) and \$99.2 million in new funding allocated over five years (2017-18 to 2021-22) to federal departments to support the work of the IAMCs (see Table 2). A total of \$43.7 million was allocated to operating costs and \$58 million to Grants and Contributions (G&Cs). These G&Cs were expected to fund activities to support IAMCs' objectives and priorities and the capacity development of potentially impacted communities to participate in the IAMC process and ongoing project monitoring.

However, at the time of funding approvals, a third IAMC was also planned for the Pacific NorthWest Liquefied Natural Gas Facility (PNW LNG). In 2017, this project was cancelled by the proponent. As a result, no IAMC was established for this project and the anticipated funding allocation was reduced by \$10.8 million (including \$5.5 million in G&Cs).

The total allocation for the IAMC-TMX and IAMC-Line 3 was thus \$90.9 million, including the \$2.5 million in existing funds. Of this, \$9.35 million was allocated to support core corporate federal functions, ⁵ resulting in a final total of \$79.05 million in new funding to support the IAMCs' operations and contribution programs.

Financial information provided by participating federal organizations indicates that planned expenditures within the period covered by this evaluation (2017-18 to 2020-21) were approximately \$59.64 million (see Table 2), with the remainder planned for expenditure in 2021-22. ⁶

Table 2. Planned Expenditures by Department, 2017-18 to 2020-21

Department	Planned Expenditures	Purpose
Natural Resources Canada	\$50.7 million	To actively participate as a member and co-chair of both IAMCs main committees, as well as participating as members of the various sub-committees of each IAMC; to support and perform IAMC Secretariat function; and to support the establishment and delivery of the IAMC contribution program.

Department	Planned Expenditures	Purpose
Canada Energy Regulator	\$6.6 million	To participate as a member of both IAMCs main committees, as well as participating as members of the various sub-committees of each IAMC, including through provision of scientific and technical capacity. This includes attending Committee meetings; preparing and sharing information with the Committee; answering questions from the Committee about compliance and enforcement status and activities related to the project; and education. The CER also facilitates site visits to the projects for Indigenous groups and actively supports the design and delivery of the IAMC IM programs.
Transport Canada	\$0.81 million	To actively participate in the Committee(s) and provide ongoing scientific and technical support for their review and analysis to inform Committee deliberations and interpretations of Acts for which these departments have authority and the monitoring of data related to their departmental mandates.
Fisheries and Oceans Canada / Canadian Coast Guard	\$1.5 million	
Environment and Climate Change Canada	\$0.003 million ⁷	
Total	\$59.64 million	

Financial data indicate that the overall budget for IAMC-TMX and IAMC-Line 3 was apportioned at approximately a 76:24 ratio. The planned funding allocated under the NRCan IAMC budget (between the two Committees) within the period of evaluation was \$50,654,382 as outlined in Table 3. Data was not available to present a similar breakdown for other federal partners.

Table 3: NRCan IAMC Planned Spending (2017-18 to 2020-21)

Planned Spending	IAMC-TMX	IAMC-Line 3	Total
Secretariat	\$3,492,799	\$2,374,580	\$5,867,379
Committee	\$4,691,500	\$1,592,200	\$6,283,700
G&Cs	\$30,423,490	\$8,079,813	\$38,503,303
TOTAL	\$38,607,789 ⁸	\$12,046,593 ⁹	\$50,654,382
Percent of Total	76.2%	23.8%	

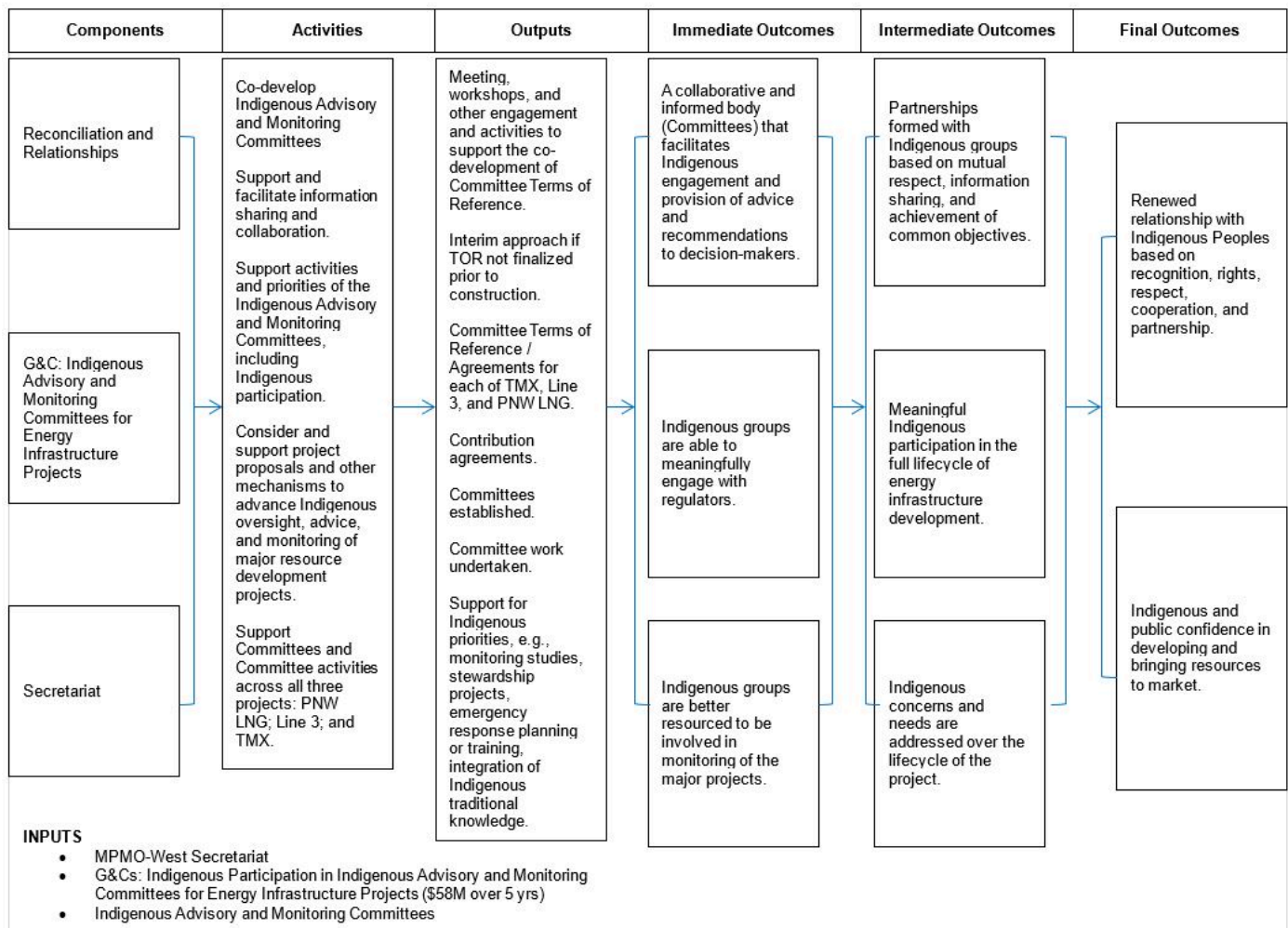
Expected Results from the IAMCs

What follows is a logic model which depicts and describes how the IAMCs were intended to work by linking activities with outputs, intermediate impacts, and longer-term outcomes. This logic model was developed by the federal government as part of the funding approval process for the IAMCs in 2016. As such, it was not co-developed with representatives of potentially impacted Indigenous Nations and communities.

Discussions with Indigenous Caucus members of this evaluation's Horizontal Working Group identified the following additional priority and outcome areas to be assessed as part of the evaluation:

- building trust-based relationships;
- operational effectiveness of the IAMCs;
- ability to reach and engage with potentially impacted Nations and communities;
- building capacity in potentially impacted Nations and communities;
- IAMCs have helped to drive broader systemic change;
- IAMCs are able to advise decision-makers and ultimately inform the decisions taken; and
- there is a two-way learning among and between IAMC members, and between IAMC Indigenous Monitors (IMs) and federal Inspection Officers (IOs).

To the extent possible, the evaluation team sought to evaluate and consider these areas throughout the evaluation.



▼ Text version

Figure 1 shows the IAMC logic model that displays the relationships amongst inputs, components, activities, outputs, and outcomes. An arrow points from “component” to “activity”, from “activity” to “output”, from “output” to “immediate outcome”, from “immediate outcome” to “intermediate outcome”, and from “intermediate outcome” to “final outcome”.

The inputs are:

- MPMO-West Secretariat

- G&Cs: Indigenous Participation in Indigenous Advisory and Monitoring Committees for Energy Infrastructure Projects (\$58M over 5 yrs)
- Indigenous Advisory and Monitoring Committees

The components are:

- Reconciliation and Relationships.
- G&C: Indigenous Advisory and Monitoring Committees for Energy Infrastructure Projects.
- Secretariat.

The activities are:

- Co-develop Indigenous Advisory and Monitoring Committees
- Support and facilitate information sharing and collaboration.
- Support activities and priorities of the Indigenous Advisory and Monitoring Committees, including Indigenous participation.
- Consider and support project proposals and other mechanisms to advance Indigenous oversight, advice, and monitoring of major resource development projects.
- Support Committees and Committee activities across all three projects: PNW LNG; Line 3; and TMX.

The outputs are:

- Meeting, workshops, and other engagement and activities to support the co-development of Committee Terms of Reference.
- Interim approach if TOR not finalized prior to construction.
- Committee Terms of Reference / Agreements for each of TMX, Line 3, and PNW LNG.
- Contribution agreements.
- Committees established.
- Committee work undertaken.
- Support for Indigenous priorities, e.g., monitoring studies, stewardship projects, emergency response planning or training, integration of Indigenous traditional knowledge.

The immediate outcomes are:

- A collaborative and informed body (Committees) that facilitates Indigenous engagement and provision of advice and recommendations to decision-makers.
- Indigenous groups are able to meaningfully engage with regulators.
- Indigenous groups are better resourced to be involved in monitoring of the major projects.

The intermediate outcomes are:

- Partnerships formed with Indigenous groups based on mutual respect, information sharing, and achievement of common objectives.
- Meaningful Indigenous participation in the full lifecycle of energy infrastructure development.
- Indigenous concerns and needs are addressed over the lifecycle of the project.

The final outcomes are:

- Renewed relationship with Indigenous Peoples based on recognition, rights, respect, cooperation, and partnership.
- Indigenous and public confidence in developing and bringing resources to market.

Evaluation Objectives, Scope and Approach

Approach

The IAMCs have committed to adopting an approach of transparency, respect for the co-development process, consideration of the interests of others, and focus on underlying interests to guide their participation. In support of this approach, the evaluation was conducted based on a participatory evaluation model which sought to engage key partners and stakeholders in the co-design and conduct of the evaluation.

As premised on participatory research and evaluation methods, the evaluation acknowledges asymmetric power balances and systemic inequalities and has made every attempt to address issues, concerns and needs of the key partners and stakeholders involved in the IAMCs. The evaluation was guided by a Horizontal Working Group (HWG) which was composed of seven federal representatives and eight Indigenous Caucus representatives (all current or past members of the IAMCs). The HWG was established to provide oversight to the evaluation. Federal government HWG representatives acted as a voice for the participating federal organizations, while Indigenous Caucus members acted as a voice for the broader Indigenous Caucus of both Committees. In addition to the HWG, the evaluators presented updates to a Horizontal Evaluation Working Group composed of evaluation staff working in the federal departments involved in the IAMCs – specifically NRCan, CER, DFO/CCG, TC, and ECCC.

Throughout the evaluation, the evaluators met with the HWG at regularly scheduled points where key evaluation approaches, documents, and preliminary finding reports were discussed for comment and were revised according to feedback, questions, and concerns received.

The evaluation framework was based on the original funding approvals and the related IAMCs initiative logic model. The latter was created as part of the federal funding approvals process prior to the IAMCs being fully established and therefore was not co-developed.

While the co-development approach to this evaluation meant the evaluation took more time than expected to complete, it allowed members of both the Indigenous and Federal Caucuses to be heard, for the evaluators to build trust, and led to changes in the methodology and an expansion of the areas of assessment, resulting in a jointly supported evaluation framework and findings. However, there was not agreement across all areas. Most notably, Indigenous Caucus members of both IAMCs expressed a desire to have separate evaluations of the two IAMCs. In the planning phase of the evaluation, it was determined that the evaluation would be horizontal in nature and cover the two IAMCs.

Evaluation Methodology

The evaluation used a mixed-method design, consisting of a mix of qualitative methods and analysis to address the key evaluation questions related to relevance, effectiveness, efficiency, and economy. The methodologies and approaches used are summarized below. Data was mostly collected between September 2021 and May 2022. Further details can be found in Appendix A.

Figure 2: Evaluation Lines of Evidence

Documentation and File Review

Review of all relevant documents as they relate to the initial conception, planning, and implementation of the IAMCs.

Key Informant Interviews

Individual interviews with close to 50 key informants (KIs) were conducted to gain insight into the implementation of the IAMCs. Some people participated in multiple interviews. See [Appendix A](#) for further details.

Case Study Reviews

The case studies provided a more in-depth understanding of the extent to which the IAMCs and the contribution program have supported the achievement of expected outputs and outcomes. A total of nine project-level case studies (five for IAMC-TMX and four for IAMC-Line 3) and three horizontal case studies were conducted. This part

of the review included interviews and a focus group with CER Inspection Officers (IOs) and Indigenous Monitors (IMs).

Regional Engagements

Four IAMC-TMX regional engagement sessions were conducted with an estimated 102 representatives of 76 potentially impacted communities along the Trans Mountain pipeline (in Abbotsford, Victoria, Kamloops and Edmonton) in order to gather feedback on IAMC-TMX activities, results, and impacts. See [Appendix A](#) for further details.

Reporting on Results

In this evaluation, the following terms are used to describe the number of interviewees who shared similar perspectives for findings:

Overwhelming Majority: over 75% of the respondent group

Majority: more than 50% up to 75% of the respondent group

Some: more than 25% up to 50% of the respondent group

Few: up to 25% of the respondent group

Limitations

What follows is an overview of limitations that had an impact on the conduct and findings of the evaluation.

Reaching All Impacted Nations and Communities

One of the key limitations of the evaluation was finding ways to gain perspectives of those who have decided, for whatever reason, not to be involved in the IAMC activities. A survey of members of potentially impacted communities and Nations was not supported by the evaluation's Horizontal Working Group.

As part of the IAMC-TMX Regional Engagements, invitations were sent out to past invitees and participants of IAMC-TMX engagement initiatives. This list included those who were invited but did not participate in these initiatives. While not perfect, the evaluation did have some success in reaching those who had been less involved in the IAMCs through the IAMC-TMX regional engagement sessions. However, discussions with IAMC-TMX Indigenous Caucus members indicates that these engagements did not reach representatives from the communities and Nations who are actively disengaged from the IAMC process. This was expected given the limited ability of IAMC members to conduct outreach during the pandemic.

As previously noted, the Indigenous Caucus for the IAMC-Line 3 did not support a regional engagement approach as they had recently undertaken regional and Line-wide engagements and were reticent to reach out again. Responding to the direction received from the Indigenous Caucus of the Horizontal Working Group, the evaluation team reviewed reports from these engagements as a proxy for direct engagement. The limitation with this latter approach was that the areas discussed at these engagement sessions were not designed to specifically inform the evaluation.

Ability to Secure Participation in the Evaluation Process

The case study review and interview components of the evaluation encountered the following limitations:

- Difficulty in tracking down/securing the project contacts to participate in case study interviews, often due to the contacts moving on to other positions; and
- Difficulty securing agreement to be interviewed to inform the case study review, with low uptake on supplementary interviews primarily given respondents' other competing priorities.

Measuring Outcomes from the IAMCs Contribution Program

The final narrative reports from funded projects often were output focused and lacked details in terms of outcomes. In addition, not all projects that were selected to be part of the case study review component of the evaluation submitted a final narrative report.

Access to Required Information

Throughout the evaluation, the team was challenged in accessing documents and financial information in a timely way as it relates to the establishment and ongoing operations of the IAMCs, as well as organizational charts for the Secretariat. The challenges encountered are attributed to the horizontal nature of the IAMCs and ensuring departments were consistently accounting for their IAMC spending, the high level of turnover of the Secretariat staff, and limitations related to knowledge management practices (e.g., well documented records of decisions, orientation of new members and shared drive) and/or reporting systems. The IAMC initiative is an

interdepartmental and not a horizontal initiative in the strictest sense (as defined by TBS) and so structures that direct coordination of a horizontal initiative are not present. Currently, there is no requirement under the IAMC initiative for federal partners to report to NRCan on IAMC spending and performance results.

Evaluation Findings

Relevance and Continued Need

Summary of Findings: Relevance

The IAMCs remain relevant. The evaluation found that the IAMCs support commitments to Reconciliation as well as commitments to implement recommendations in the *United Nations (UN) Declaration on the Rights of Indigenous Peoples*. Specifically, the IAMCs help support the federal government's commitment to improve how potentially impacted Indigenous communities and Nations are involved in reviewing and monitoring major resource development projects. The IAMCs have been and continue to be aligned with both federal and Indigenous priorities, although the nature of these priorities differ among Indigenous and Federal Caucus members.

The IAMCs are in direct response to a request by Indigenous leaders for a seat at the table in monitoring these large energy projects. The IAMCs are seen as an important step towards the achievement of the Government of Canada's commitment to Reconciliation.

There is a continued need for the IAMCs. The Government of Canada has made commitments to implement the IAMCs over the life cycle of these two energy projects. While approved in 2016, an extensive co-development process meant that the IAMCs were not fully operational until 2017. Additionally, the COVID-19 pandemic slowed the progress of the IAMCs in terms of in-person engagement with communities and their ability to achieve expected results. Evidence indicates that both IAMCs are needed to continue to build capacity of potentially impacted Nations and communities.

While there is agreement on the need for the IAMCs to continue to evolve, there are divergent views on the future directions, application, and evolution of the IAMC model. There is a desire among Indigenous Caucus members of both Committees for greater delegation of decision-making to the IAMCs and for a new power dynamic that reflects joint decision-making and sharing of authorities.

The evaluation sought to assess key aspects of ongoing relevance of the IAMCs, specifically:

- Alignment with federal and departmental priorities
- Alignment with Indigenous priorities
- Continued relevance and need for the IAMCs

Alignment with Federal and Departmental Priorities

The Government of Canada has stated that relations with Indigenous Peoples must be based on the recognition and implementation of their inherent right to self-determination. The Prime Minister has made it clear, through mandate letters, public communications, and early policy actions, that Canada needs a whole-of-government approach to Reconciliation, based on recognition of Indigenous Peoples and their rights to move forward in a meaningful way that is ultimately transformative. The 2015 Speech from the Throne made a commitment to review

environmental assessment processes to better engage the public and to ensure Indigenous Peoples' rights are respected. Specifically, the Government confirmed that "Indigenous peoples will be more fully engaged in reviewing and monitoring major resource development projects." ¹⁰

As noted by the Prime Minister of Canada in 2015 "There remains no more important relationship to me and to Canada than the one with Indigenous Peoples" and in 2019 "Reconciliation with Indigenous people remains a core priority for this Government, and it will continue to move forward as a partner on the journey of reconciliation". ¹¹ As outlined in recent Ministerial mandate letters ¹², each Minister was directed to determine what they could do in their specific portfolio to accelerate and build on the progress made with First Nations, Inuit and Métis Peoples.

The establishment of the IAMCs supports broader federal government-wide commitments to Reconciliation and the implementation of the *United Nations Declaration on the Rights of Indigenous Peoples Act* (2021), ¹³ and particularly Article 18 and 32 of the UN Declaration.

Ultimately, an overwhelming majority of interviewees recognized the IAMCs as an important step towards the achievement of the Government of Canada's commitment to Reconciliation. Representatives from CER noted that the *Canadian Energy Regulator Act* has hardwired Reconciliation and the UN Declaration on the Rights of Indigenous Peoples into the *raison d'être* of its mandate. Given this legislative framework, there was a desire at the most senior levels within the CER to find new ways to involve and engage with Indigenous Nations and communities in the regulatory processes and oversight of the large energy projects. However, the IAMCs and their Indigenous Caucus members do not act on behalf of rights holders and, therefore, the federal government continues to have a duty to consult directly with rights holders impacted by regulatory decisions.

One senior official indicated that, dating as far back as 2015, the policy direction in the CER was to find ways to work differently with Indigenous peoples, in line with government-wide commitments to Reconciliation. While representatives of other departments acknowledge the value of the IAMCs, they note that other processes are also in place with rights holding communities to advance a number of initiatives and are mindful of not duplicating this work. This was identified by a few Federal Caucus members as a key commitment outlined in the TOR, i.e., the IAMC do not replace the government's requirement to consult directly with the rights holders.

In 2017, Canada's Minister of Natural Resources approved the Terms of Reference of the IAMC-TMX (July 2017) and IAMC-Line 3 (October 2017) as well as the Secretariat to support the Committee, indicating the initiative was strongly aligned with departmental (NRCan) priorities.

Alignment with Indigenous Priorities – An Important Step in Building Trust-based Relationships

The IAMCs concept finds its roots in interests expressed by Indigenous leaders of potentially impacted Indigenous Nations and communities to be involved in the monitoring and the provision of advice on major energy projects. Specifically, Chief Ernie Crey and Chief Aaron Sumexheltza (who initially proposed the idea of an Indigenous Committee to oversee the TMX project) stated that Indigenous representatives wanted "a seat at the table" and "[to not be] left outside the gate looking in" regarding involvement in the Trans Mountain Expansion.

The request by Indigenous leaders for greater involvement in these large energy projects rested on:

- Inherent rights and responsibilities to govern and protect their ancestral land and culture;
- Traditional knowledge of their lands;
- Connection to and stewardship of the natural environment; and
- The views that Indigenous peoples bear the impacts of these major energy projects.

Prior to the establishment of the IAMCs, Indigenous leaders identified the following gaps and limitations within the regulatory framework in relation to Indigenous engagement and participation in large energy projects. Specific concerns, as noted in a series of letters to the Minister of Natural Resources from Chief Crey and Chief Sumexheltza, included:

- The Crown relied too heavily on the National Energy Board (NEB) – now the Canada Energy Regulator – to discharge the duty to consult.
- The NEB review process was viewed by Indigenous leaders as too restrictive for meaningful Indigenous participation and engagement.
- There was insufficient funding available to support meaningful Indigenous participation.
- Indigenous participation was restricted to the environmental assessment process, with a lack of opportunity to be involved over the full lifecycle of energy projects and a lack of appropriate integration of traditional and ecological knowledge.

Box 1: Evolution of Legislative Context

In 2019, the Government of Canada enacted the *Canadian Energy Regulator Act* and *Impact Assessment Act* and repealed the *National Energy Board Act* and the *Canadian Environmental Assessment Act, 2012*. This new legislation recognizes that the Government of Canada is committed to implementing the United Nations *Declaration on the Rights of Indigenous Peoples*. It has led to a modernization of governance structures, with the creation of both the Canada Energy Regulator (CER) and Impact Assessment Agency of Canada (IAAC) and is expected to result in more inclusive engagement processes and greater participation of Indigenous peoples in the regulatory review and monitoring process.

While additional actions have since been taken (see Box 1), the IAMCs were a federal commitment to begin addressing these gaps and limitations. An overwhelming majority of members interviewed from the IAMCs' Federal and Indigenous Caucuses agreed that these Committees are an innovative and collaborative mechanism for bringing forward First Nations' and the Métis Nation's concerns regarding the regulatory review and oversight of these large energy projects. The IAMCs are viewed by all of those interviewed as a positive step along the path to Reconciliation and a significant step towards rebuilding the relationship between the federal government and Indigenous Nations and communities.

As noted by the Chair of the IAMC-TMX Indigenous Caucus, the establishment of the IAMCs has created a space that did not exist previously in the major project context – where Indigenous representatives of potentially impacted Indigenous Nations and communities can come together to identify common issues, concerns, and solutions as they relate to these large energy projects.¹⁴

Continued Relevance and Need for the IAMCs

When announced in 2016, the IAMCs were expected to provide an ongoing mechanism for potentially impacted Indigenous Nations and communities to raise concerns, provide advice and help oversee these projects over their entire lifecycles.

Lifecycle includes the planning, application, construction, operation, decommissioning and abandonment phases of a project.

"The Indigenous Advisory and Monitoring Committee was established because our Government believes that Indigenous peoples should be part of the review and monitoring of the TMX project, from beginning to end."

- Canada's Minister of Natural Resources (2016)

This commitment is also reflected in the IAMCs' Terms of Reference – specifically, for TMX (2017): "These Terms of Reference will terminate at the end of the lifecycles of the [Trans Mountain pipelines] or earlier upon the agreement of the Government, the NEB and the Caucus" and for Line 3 (2017): "These Terms of Reference will terminate at the end of the lifecycle of the L3RP [Line 3 Replacement Project] Activities, or at some other date, upon the agreement of the NRCan, the NEB and the Indigenous Committee Members." Together, these commitments underscore the continued need for the IAMCs.

As these large-scale projects span well into the future, those interviewed from the Indigenous Caucus for both Committees emphasized the continued need for the IAMCs and broader supports (e.g., Secretariat, Caucus, and G&Cs resources) to progress towards Indigenous engagement and inclusion in the monitoring of large energy infrastructure projects. Interviews, regional engagements, and the case studies provided evidence that the IAMCs are needed to continue to build the capacity of potentially impacted Nations and communities to support their ongoing participation in monitoring and economic development opportunities associated with the projects. Federal Caucus members also emphasized the continued need for these Committees to fulfill the federal government's commitment to the life of the projects, as well as advancement of the government's broader commitment to Reconciliation.

Need to Evolve the IAMCs

While all of those reached by the evaluation see the IAMCs as important joint Indigenous and federal advisory and monitoring mechanisms, some see the need to continue to evolve the IAMCs to respond to shifting work and priorities. Views of Federal and Indigenous Caucus members diverge on the future directions, application, and evolution of the IAMCs model. This was particularly apparent for the Indigenous Caucus of IAMC-TMX.

For the overwhelming majority of Indigenous Caucus members interviewed from both IAMC-Line 3 and IAMC-TMX, there is a desire for greater delegation of decision-making to the IAMCs and for a new power dynamic that reflects joint decision-making and sharing of authorities with the federal government and regulators. While progress has been made, further improvements to oversight and shared decision-making regarding the projects are said to be needed. Overall, Indigenous Caucus members of IAMC-Line 3 expressed more satisfaction with the IAMCs. However, several members expressed concern about how the IAMC-Line 3 will evolve in subsequent phases of the project as construction comes to completion and the Line moves into ongoing operations and decommissioning.

Three representatives of the Indigenous Caucus of IAMC-TMX indicated that potentially impacted Nations have continually fought to have a seat at the table when regulatory decisions are being made that impact their lands. These representatives feel now that they are at the IAMC table, they want to move further, faster to achieve better results. As a result, the Indigenous Caucus is often pressuring government representatives and Secretariat staff to be more responsive to their needs (e.g., by making policy and program changes, releasing contribution funds quicker, providing financial updates as requested, etc.). At times, the Indigenous Caucus of IAMC-TMX is viewed by some (not all) Federal Caucus members as reaching beyond the mandate for the Committee as outlined in its TOR. For other Federal Caucus members and NRCan senior leaders, there is a recognition of the Indigenous Caucus'

frustration with the structure and functioning of the IAMCs and the supporting Secretariats. A follow up interview with an NRCan senior leader noted that the Department is working with its Federal Caucus members to address these concerns.

“They [the IAMC-TMX Indigenous Caucus] want to move from an advisory to oversight Committee, to take decisions themselves and hold companies to account. There is frustration within the IAMC related to red tape [in the federal government].”

- Source: Interview Federal Caucus, IAMC-TMX

The issue of accountability in relation to the IAMC is a topic of concern of Indigenous Caucus members. Currently, there are no effective levers for Caucus members (Indigenous and non-Indigenous) to raise concerns when the IAMCs are not operating as expected, not achieving expected results and/or holding members to account. Interviews with Indigenous Caucus members identified possible options for evolving the IAMC beyond the current TOR including:

- For a few Indigenous Caucus members of the IAMC-TMX, the vision is to evolve the IAMCs into an independent Indigenous regulator with shared decision-making authorities.
- Alternatively, one IAMC-TMX Indigenous Caucus member and two Caucus resources recommended a two-tiered IAMC model, with a Tier 1 senior leadership level Committee (fully engaged, delegated and committed) and a Tier 2 technical level Committee (where technical details are worked out with less senior subject matter experts).

This aligns with recommendation of one representative of the Indigenous Caucus of IAMC-Line 3 for the appointment of a senior-level working group comprised of the Minister of Natural Resources, Deputy Minister of NRCan, CEO of the CER and IAMC Committee co-chairs which could meet once or twice a year, where results and progress can be assessed, direction can be given, and momentum can be maintained.

“The IAMC-Line 3 Indigenous Caucus would be more relevant if we had teeth; if we are an Indigenous advisory monitoring committee, something stronger than a board with the ability to change legislation, and the legislation would have to be followed by the government... Instead of developing legislation that doesn't work – working together to amend legislation. When they [the Government of Canada] start respecting us and asking us for advice for legislation and policy – that's Reconciliation.”

- Source: Interview Indigenous Caucus, IAMC-Line 3

Three Federal Caucus members from the IAMC-TMX and a senior federal official were challenged to see how the IAMCs fit within the broader federal framework and engagement/consultation landscape. Specifically, these members questioned whether the IAMCs, as currently structured and funded, should continue in the future. The IAMCs are viewed by two federal representatives as just one mechanism among many in a crowded landscape that, in their opinion, goes beyond what the federal government and Indigenous Nations and communities have the capacity to support. For these individuals, there is a sense that the federal government needs to rethink its

approach to engagement with Indigenous Nations and communities. The current approach to engagement is viewed as unsustainable (e.g., treaty negotiations, Recognition of Indigenous Rights and Self-Determination discussion tables, government-wide and departmental engagements on policy, legislation, programs, and services, etc.), and the creation of more IAMCs would only exacerbate this.

“There is too much [uncoordinated] engagement – one-by-one and sector by sector. There are too many interfaces and too many Nations for the federal government to do this effectively. It is unsustainable. We [the federal government] are overwhelmed and so are the Indigenous Nations. From a federal perspective, we need to bring all implicated departments together to examine and engage on a regional level within an ecosystem lens.”

- Source: Interview former senior government official

Effectiveness: Achievement of Expected Immediate Results

Summary of Findings:

The IAMCs are collaborative bodies that put Indigenous concerns at the forefront of regulatory oversight of the TMX and L3RP energy projects. Underscoring the establishment of the IAMCs was the commitment to co-development, which was supported by a high level of senior federal engagement with representatives of potentially impacted Nations and communities. This was identified as a critical foundation for building understanding of each others’ world views and trust-based relationships.

The IAMCs are seen as an effective mechanism to support Indigenous engagement, advice and recommendations to decision-makers. From implementation to March 2020, 67% of potentially impacted Nations and communities participated in an IAMC activity (e.g., 148 out of 221) across the two projects. While the IAMC-TMX and IAMC-Line 3 have provided extensive advice to government, Indigenous Caucus members of both IAMCs indicate that government has been slow in responding to advice and recommendations put forward.

Both IAMCs have partnered with CER and NRCan to develop distinct Indigenous Monitoring (IM) programs. The IAMCs have helped to strengthen Indigenous participation in identifying environmental, cultural and socio-economic risks and effects, including those related to temporary work camps in both BC and Alberta. From 2017 to March 2023, IAMC-TMX has undertaken over 148 and IAMC-Line 3 has undertaken 46 joint compliance verification activities with the CER (including inspections, meetings and emergency response exercises).

IMs interviewed as part of the evaluation indicated that they feel they are developing valuable monitoring skills that can be applied in other areas and sectors. Indigenous Caucus members and IMs agreed that the joint training was a critical first step in building IM capacity and trust-based relationships between federal inspectors and IAMC Indigenous monitors. It is viewed as a positive step for the Crown in living up to its commitments. However, the Indigenous Monitor positions are not full time and retention of the IMs is challenging.

The implementation of the IAMCs was expected to achieve the following immediate outcomes outlined in the IAMC logic model (Figure 1):

- The provision of advice and recommendations to decision-makers are the result of collaborative and informed IAMCs;
- Indigenous groups are able to engage meaningfully with the regulator(s); and
- Indigenous groups are better resourced to be involved in monitoring of the major project – both in the terrestrial and marine environment.

To some extent, these expected results align to the Indigenous Caucus members' key priorities of building trust-based relationships and supporting two-way learning among IAMC members and between IAMC Indigenous Monitors (IMs) and CER Inspection Officers (IOs). This section presents findings related to achievement of these expected results.

The IAMCs are collaborative bodies.

Through interviews, the overwhelming majority of federal and Indigenous members of both IAMCs indicated that the establishment of the IAMCs signaled a commitment to change the nature of the relationship and a willingness of all members to listen and work together differently – in partnership – to evolve the regulatory oversight of large energy projects.

Interviews with three senior leaders from NRCan and CER who were involved in the establishment of the IAMCs recognized the need to evolve how the federal government engaged and worked with impacted Nations and communities to address their concerns as it relates to energy projects that cross through or are in close proximity to their land. These interviewees noted that the IAMCs are a commitment by the federal government to respond to the interests of Indigenous Nations and communities to be involved in ongoing monitoring and oversight of the TMX and the L3RP and provide advice to Government and regulators over their respective lifecycles. The IAMCs were intended as a new government-Indigenous model to improve collaboration and seek Indigenous insights and advice throughout the lifecycle of these projects. They noted that the IAMCs provide a new path for Indigenous views to be considered by federal regulators in relation to these major projects.

“The IAMC signaled a real change in how we do our business – a collaborative approach to regulating the pipeline through the life cycle of the project.”

- Source: Interview Federal Caucus, IAMC-Line 3

“It is an opportunity for those impacted to work with the Government of Canada through the IAMC to influence projects. Fundamentally, it represents a new way of doing things on a regulatory project.”

- Source: Interview former Federal Caucus, IAMC-TMX

“Being on this Committee for the last 5 years, I see that things have grown and shifted. Because of the relationship the Indigenous Caucus has been able to build with CER, we are having an effect on regulatory regimes. It is not perfect, but it is moving forward.”

- Source: Interview Indigenous Caucus, IAMC-TMX

As a result of the establishments of the IAMCs, the majority of Indigenous Caucus members interviewed for both IAMC-TMX and IAMC-Line 3 as well as Indigenous leaders reached through the IAMC-TMX regional engagements indicate that, for the first time, they perceived Indigenous concerns to be at the forefront of regulatory oversight.

An overwhelming majority of those interviewed from the IAMCs, both Federal and Indigenous Caucuses, indicated that the IAMC process has contributed to greater collaboration, shared learnings, and are a positive step in helping to reshape relations.

Federal and Indigenous Caucus members agreed that this does not mean the discussions and IAMC activities were not without challenges and tensions. As noted by a Federal Caucus member, the IAMCs model is founded on inherent tensions of the distinct and sometimes opposing interests of the members. The effectiveness of the IAMCs is dependent primarily on the level of trust between members; extent of inclusion; the nature of the relationships; and the ability of the Committee members to work together. Representatives of the Indigenous Caucuses of both IAMCs noted difficulties encountered in forming these Committees and building trust-based relations given historical relations between Indigenous peoples and the Crown, characterized by a lack of inclusion of First Nations and the Métis Nation in decision-making on large energy projects and with energy regulators in Canada.

“Intergenerational trauma has subtle influences that may be perceived differently by non-Indigenous Secretariat staff and government representatives, and responses to that trauma could be taken as insulting and disrespectful. While not a normal part of relationship building, for Indigenous peoples, intergenerational trauma has a profound effect on relationship building given the historical political wrongs that may add or amplify day to day relations of all Committee members.”

- Source: Interview, Indigenous Caucus, IAMC-Line3

As noted by one representative of the Indigenous Caucus of the IAMC-Line 3, inclusion relies on a multitude of factors: *acceptance of worldview, participation, trust, and respect*. Indigenous Caucus members noted that Federal Caucus members might not understand Indigenous history in Canada and its impact on the ability of Indigenous peoples to enter into trust-based relationships with the federal government. On the other hand, a number of Indigenous Caucus members also noted that they lacked an understanding of how government operates. These factors made it difficult to reach consensus and make progress.

The IAMC co-development process was foundational to building trust-based relationships.

The evaluation found evidence that the co-development process was foundational to establishing the IAMCs and their ongoing implementation.

An overwhelming majority of Caucus members for both Committees and senior participants in the IAMC-TMX regional engagement agreed that the co-development process was characterized by a high degree of senior level engagement, productive collaboration, and widespread engagement with potentially impacted Indigenous Nations and communities.

“We started out well with critical leadership commitment and engagement in both CER and NRCan.”

- Source: Interview Federal Caucus, IAMC-TMX

A few Indigenous Caucus members of both Committees indicated that it was difficult to build trust and seek agreement across the potentially impacted Nations and communities given the low level of support among most Indigenous leaders, Nations and communities for these large energy projects. The majority of Federal Caucus

members and an overwhelming majority of Indigenous Caucus members, for both Committees, attributed the high level of senior, in-person engagement (both Indigenous and federal government leadership) as a critical factor for building this trust and greater support.

“We have learned a lot about co-development through the IAMC co-development process. It is extremely challenging but worthwhile. I wonder if the IAMC didn’t exist – would the opposition have remained so forceful to it [the TMX project] that it wouldn’t have been built? It is highly likely that the proponent wouldn’t have made as much progress without the IAMC.”

- Source: interview Indigenous Caucus IAMC-TMX

The Committee Terms of Reference (TOR), membership, and IAMC governance were co-developed for both IAMCs. Further examples of co-development include the development of the IAMC IM programs, each of which included representatives of each IAMC and CER with support from NRCan and, at times, the proponent. Evidence from the key informant interviews, case study reviews and regional engagements indicates that the co-development processes for these four key elements were viewed very positively.

In September 2019, the IAMC-TMX, CER and Trans Mountain Corporation also established a Monitoring Policy Table in response to concerns raised by the Committee’s Indigenous Caucus regarding the Trans Mountain Indigenous Monitoring Program. The Table serves as a forum to discuss issues between the regulator, the proponent, and Indigenous representatives outside of a formal regulatory process. It was intended to be a new way of working together with a focus on pursuing regulatory and operational excellence and identifying areas for immediate action within the field of Indigenous Monitoring. In January 2020, an Indigenous Monitoring Framework was signed that contained several short-term deliverables and longer-term considerations. Interviews with two representatives of the IAMC-TMX Sub-Committee on IM noted that the IM framework has yet to be fully implemented.

Two representatives of the Indigenous Caucus of IAMC-Line 3 indicated that Committee members have also worked to co-develop solutions with Nations and communities potentially impacted by the L3RP, leading to notable policy and procedural changes within CER.

From the perspective of a few Indigenous Caucus members (from both IAMC-TMX and IAMC-Line 3), one drawback of the process was the speed by which the Committees had to be established which resulted in tight timelines in finalizing the TOR. However, they, along with the majority of the Federal Caucus members of both Committees, recognized that the speed of the process was necessary given the fact that construction on the Line 3 project had already been initiated and there was pressure to move forward with the Trans Mountain project.

The majority of the Indigenous Caucus members of IAMC-TMX, two sub-committee representatives of the IAMC-TMX, and a few members of the IAMC-Line 3 Indigenous Caucus recommended that, for co-development to be more effective, it should include the co-development of the renewal and ongoing evaluation of the IAMCs. A renewed mandate for the IAMC-Line 3 was identified as a priority in its 2021-2022 strategic plan with these principles in mind.

Evolution of the Relationship

The evaluation found evidence that the IAMCs were established with a high level of federal senior engagement with representatives of potentially impacted Nations and communities. This was identified by some senior federal officials and the majority of Indigenous interviewees of both the IAMC-TMX and IAMC-Line 3 as a critical foundation for building understanding of each others’ world views and trust-based relationships.

Indigenous Caucus members interviewed from both IAMCs indicated that the CER came into the IAMCs with the right mindset and was committed, from the beginning, to making real and sustainable change. They added that senior leadership within NRCan was fully committed and engaged in the co-development process including extensive engagement with representatives from potentially impacted communities.

A review of federal documents and key informant interviews with senior CER representatives indicate a commitment to evolving how the CER reviews and monitors energy projects. This includes a commitment from the highest level to actively participate in the IAMCs and to seek input and guidance on how to evolve the IAMCs. This was and is demonstrated with the appointment of a CER Vice President and an Executive Vice President to the IAMC-Line 3 and IAMC-TMX respectively. In addition, CER has committed staff to the IAMCs and the IAMCs IM programs. The CER's Indigenous Advisory Committee (IAC), which provides strategic advice to the CER's Board of Directors, also has a formal relationship with both IAMCs and it meets regularly (at least annually) with the co-chairs of both IAMC committees so that the IAC and Board remain apprised of issues of interest and current activities of the IAMCs.

A review of documents and interviews with a former senior NRCan staff, current NRCan staff and two senior CER staff members (who were involved in the co-development process) indicated that the level of NRCan senior level engagement in the IAMCs has declined since 2020. This is attributed in part to the COVID-19 pandemic, which was identified by Caucus members of both IAMCs as one of the most significant external factors acting as a barrier to the implementation of the IAMCs and results achievement since early 2020. While the evaluation found that progress had been made in the implementation of the IAMCs, COVID-19 hampered progress based on:

- The need to rethink the IAMC priorities to focus on the pandemic response and safety of potentially impacted Nations and communities;
- The inability of the IAMCs to convene in-person which, for some Indigenous Caucus members of both Committees, impacted trust in Federal Caucus members; and
- The inability of IAMC members, particularly Indigenous Caucus members, to conduct in-person engagements with potentially impacted Nations and communities – particularly those who were not engaged in the process to date. Regional engagements for IAMC-TMX found that the reduced in-person engagement impacted the level of understanding of and trust in the IAMCs among members of potentially impacted Nations and communities.

Declining levels of senior staff involvement, the level of active engagement by the Federal Caucus (e.g., how prepared members are and how actively they participate in meetings), a high level of turnover of Secretariat staff (including those at the senior level), as well as lower levels of federal representatives assigned to the IAMCs are perceived to be impacting trust-based relationships. Indigenous Caucus members for both IAMCs and interviews with Secretariat staff indicated that this has contributed to rising tensions and high staff turnover which has created capacity issues within the Secretariat leading to delays in undertaking the work of the IAMCs, including administration of the IAMC contribution programs. These conditions lead to further staff turnover, and a self-propelling cycle. For members of the IAMC-TMX, the high turnover in the leadership at the Secretariat level and within NRCan has resulted in the revisiting of decisions taken under previous leadership. One example provided was the Contribution agreement approval process. Interviews with Secretariat staff confirmed that there were changes in NRCan leadership and oversight which has caused delays in decision-making and the Contribution program approval process (see section on Efficiency).

For the Indigenous Caucus members of the IAMC-TMX, there is a strong desire for the other federal partners (DFO, CCG, ECCC and TC) to engage to the same level as has been demonstrated by the CER. IAMC-TMX Federal Caucus members from DFO, CCG, and TC indicated that the IAMCs are one advisory body among many within the

jurisdiction of these departments, noting that a higher investment than originally anticipated has been required to support the ongoing operations of the Committees.

The IAMCs have facilitated Indigenous engagement, advice, and recommendations to decision-makers.

Interviews, document review, and case studies provided evidence that the implementation of the IAMCs has facilitated Indigenous engagement and the provision of advice and recommendations to federal decision-makers. NRCan data indicates that from Committee implementation to March 2020, 148 out of 221 (67%) of potentially impacted Nations and communities participated in one or more IAMC activities (i.e., 53% of those for TMX and 87% for Line 3).

These opportunities included (but are not limited to): Line Wide and regional engagements, capacity funding to participate in the IAMCs and the IM programs, as well as the co-development of a process and policies related to Indigenous monitoring programs and joint inspections.

The IAMC-Line 3 TOR co-development process included two line-wide workshops, four regional workshops, and 50 Indigenous members who participated in the working group. The process took 11 months, resulting in the draft terms of reference (TOR) for IAMC-Line 3 as well as the facilitation of input of Indigenous groups in selecting IAMC Committee members who represent Indigenous communities potentially impacted by the project.

The IAMC-Line 3 held its first Line-Wide gathering in 2017. The IAMC-Line 3 also held several information sessions across impacted provinces. For example, IAMC-Line 3 hosted four regional information sharing sessions with leadership, Elders, and technicians in attendance as well as a number of Line-Wide gatherings. The sessions were held in Fort Qu'Appelle (November 2018), Winnipeg (January 2019), Tsuut'ina First Nation (February 2019), and Saskatoon (February – March 2019). The focus of the sessions was to provide information on the programs and activities of the IAMC and to seek feedback and distinct input from each region to gain a better understanding of issues and concerns across all three provinces. Senior leadership from the CER, including the then CEO, participated in each session and presented on the role of the regulator during the Line 3 replacement lifecycle. IAMC-Line 3 also conducted a number of community visits, participated in cultural events, hosted monitoring workshops and a gathering of regional Chiefs.

For the IAMC-TMX, the co-development process included an invitation to all Indigenous Nations and communities on the Crown consultation list to participate. It was focused on shared interests and included independent facilitation, joint planning, and consensus-based decision-making. The TOR was drafted jointly by delegated leads and validated with the Indigenous Nations and communities through an iterative process. Approximately 75% of potentially impacted groups participated through 10 workshops.

The Indigenous Caucus of IAMC-TMX held its first Line-Wide gathering in late 2018. It was attended by approximately 90 Indigenous participants who had the opportunity to engage with representatives from the CER, federal departments, and the BC Coast Pilots Ltd. Also, the IAMC-TMX organized a multi-day workshop on emergency management which was attended by representatives from 9 Stó:lō communities.

Representatives from NRCan and CER participated in the Leadership Panel during the 2019 Line Wide Gathering for IAMC-TMX, which involved 150 Indigenous participants representing 61 Nations and communities.

In addition, the sub-committee work of both Committees provides ongoing advice to government. For example, the IAMC-TMX Policy table has led to the creation of a Monitoring Policy Framework which was co-developed in 2020 and identified 23 short term deliverables. These deliverables are linked to the shared goal of ensuring that the Trans Mountain Expansion project is built and operated safely, in full regulatory compliance with Indigenous

participation in project oversight, so that disruption and risk to the environment and Indigenous interests are minimized. A number of key deliverables have been implemented including regional workshops, Indigenous Monitoring program manuals and practices, and an Indigenous Monitoring Bridging Program at the CER.

Provision of Advice

Indigenous Caucus members from both IAMC-Line 3 and IAMC-TMX indicate that, as a result of the IAMCs, the Indigenous Caucuses have been able to provide ongoing advice and recommendations to the federal government. This is provided through the interactions of the main IAMC Committee, the Sub-Committees and by members directly to the Minister of Natural Resources, other regulators and project proponents. While a few representatives of the Indigenous Caucuses of both IAMCs question the extent to which government representatives bring the issues and recommendations discussed in the IAMCs back to their respective departments, representatives from CER and NRCan indicate that the work of the Committees has led to changes within their respective departments.

“It is not clear that government representatives interact with their superiors. At what levels of management do advice to government conversations reach?”

- Source: Interview Indigenous Caucus IAMC-Line 3

“Reaching all levels of the bureaucracy is vital to building change. The [IAMC-Line 3] Committee met with the Minister once in five years, that does not represent commitment to change.”

- Source: Interview Indigenous Caucus IAMC-Line 3

The Indigenous Caucuses of both IAMCs have also provided formal advice and recommendations to government and the regulators. As per Clause 56 of the IAMC-TMX TOR and Clause 15.1 of the IAMC-Line 3 TOR, advice supported by a majority of members “may be put forward to the regulators when it reflects a **consensus** of members.” Further, when either Committee provides formal, written advice to the CER and/or the government, the TOR for both Committees indicates that the federal government will consider the advice and formally respond whether they have accepted, modified, or rejected the advice and provide their reasoning.

While the term **consensus** is not defined in either IAMCs’ TOR, the commonly held definition of the term consensus is that it means “a generally accepted opinion among a group of people” or “the majority of opinion among a group of people”.¹⁵ As currently structured, the Indigenous Caucuses of both Committees make up the majority of membership.

In December 2019, the Indigenous Committee members of IAMC-Line 3 submitted an Advice Report containing 55 recommendations to the federal government. Recommendations include: improving capacity support for Indigenous Nations to enable broader participation and more effective collaboration with government; increased Indigenous involvement in emergency management; improved protection of Indigenous heritage resources and sacred sites; improved access of Elders and Knowledge Keepers to the Right-of-Way; and the inclusion of support for Indigenous interests in both federal and provincial project review legislation. It was expected that the

applicable federal departments or agencies would respond directly to those recommendations. There is evidence that CER provided a response to the advice provided in Line 3 IAMC Summary Report in May 2021, and has since been implementing and updating the IAMC on its response.

Indigenous Caucus members of both Committees perceived the delay between when advice and recommendations are submitted to government and when the IAMCs receive an official response to often be too long.

“Advice and recommendations to government are an important topic – we were still in the draft phase [of developing it]. We fast tracked it to get it to them [federal regulators]. The output and response took a lot longer than we thought; we are still in the process of waiting for the regulator and NRCan’s responses. There is clear direction how they should respond, yet it is still taken a lot of time. It took some pushing to get responses to this. We do great work but sometimes we feel like we hit a roadblock. We haven’t gotten to the point that we have received response to all the recommendations we have given.”

- Source: Interview Indigenous Caucus IAMC-Line 3

“While the Minister has prioritized the Indigenous Advisory Monitoring Committees, the Minister’s office has not prioritized responding to them. When the IAMC provided advice to government and the regulator, it took 18 months for a response.”

- Source: Interview Indigenous Caucus IAMC-Line 3

Indigenous Caucus members of the IAMC-TMX indicate that they have also provided advice and recommendations to government on a number of occasions and has itemized these in a 390-page document with advice on policy and legislation, socio-economic risk and benefits, emergency response, Indigenous knowledge, and monitoring. Indigenous Caucus TMX Support Resources indicated that responses are often not received. The evaluation team was not provided with evidence of formal government responses to these recommendations, though there is evidence of some advancements made to address advice received through the IAMC-TMX policy table.

CER has indicated that since receiving the advice and recommendations from the IAMCs, there have been a number of important changes at the CER – many of which align with, and were informed by, the advice and perspectives shared at both IAMCs. CER documentation provides evidence of progress being made in various areas. CER has also made follow up presentations to the IAMC-Line 3 on its approach to responding to the advice. However, from the perspective of Indigenous Caucus members of IAMC-Line 3, these presentations are informal, not within any set timelines, and does not meet their expectations for formal response to the IAMC advice and recommendations.

Two Federal Caucus members of the IAMC-TMX noted that the advice provided to government from the IAMC-TMX reflects a consensus of the Indigenous Caucuses of this Committee as opposed to the consensus of all members (including the Federal Caucus). For these two representatives, the process followed for submitting the IAMC advice and recommendations does not meet the requirements of the clauses outlined above and these Federal Caucus representatives indicated their respective departments have thus been challenged to respond to the Indigenous Caucus’ advice and recommendations. A few Federal Caucus members also questioned whether some of the formal IAMC advice and recommendations to government are outside the mandate and scope of the IAMCs.

“Consensus based decisions are not to be used as a back pocket veto card in the decision-making process. Government and Indigenous representatives must appreciate that decisions for consensus must always leave room to evolve, educate, [allow for] give and take, ebb and flow so to speak and work towards the best decision of the day as groups work towards a common interest.”

- Source: Interview Indigenous Caucus IAMC-Line 3

As previously noted, there was a suggestion from one IAMC-TMX Indigenous Caucus member for the appointment of a senior-level working group comprised of Minister, the CEO of CER, DMs and Committee Co-Chairs which in their view may increase accountability to and from the IAMC.

Indigenous Groups are better resourced to be involved in monitoring of the major projects.

The IAMC Indigenous Monitoring programs are a key cornerstone of the work of both IAMCs. As a result, a detailed overview of these two distinct IAMC IM programs is outlined below.

Origins of the Indigenous Monitoring Program

To support the formation of a new relationship, the signatories to the TOR for both IAMC-TMX and IAMC-Line 3 agreed to establishment of an Indigenous monitoring program to support, among other areas, Indigenous capacity development to participate in the monitoring of these projects, including environmental, safety, and socio-economic imperatives.

The concept of an Indigenous monitoring program was not new to the federal regulators, as other federal regulators already had Indigenous monitoring programs as part of their regulatory inspection process (e.g., DFO's Fisheries Monitoring program and Indigenous Habitat Participation Program). However, key informant interviews with representatives from CER and DFO indicated that the IAMC IM program was a first for CER and was based on a different context and model (as described below).

Overview of IAMC IM Programs

For the IAMC IM program, Indigenous Monitors are part of the compliance verification activity (CVAs) team but are not present on the project all the time. CER pipeline inspections or CVAs are extensive undertakings. For the IAMC-CER joint monitoring, the intent was for the CVA process to include up to five days each of pre- and post-inspection work, as well as five days on site.

Compliance verification activities (CVAs) include regular activities that the CER undertakes to follow up with companies and to check that its regulations are being met. This includes inspections, i.e., a check at one point in time that a company is meeting (complying with) requirements in acts, regulations, and conditions of a project's approval, certificate, order, or permit. CVA reports are produced from field inspections and emergency response exercises that CER completes with companies, and will list whether CER has issued a corrected non-compliance or a notice of non-compliance to a company.

- Source: Adapted from [CER](#) ¹⁶

IAMC-TMX Indigenous Monitoring Program

In 2017, an IM Pilot Program was developed by the IAMC-TMX in partnership with the CER and the Paul First Nation Industry Relations Corporation (PFN-IRC). As part of the pilot, IAMC-TMX IMs participated in two CER environmental inspections and three safety inspections. This pilot established a framework for Indigenous

monitoring and was intended to serve as the model for an IAMC IM program throughout the Trans Mountain pipeline corridor.¹⁷ Trans Mountain received approval to begin construction in June 2019. Also in 2019, CER, Trans Mountain Corporation (TMC), and the IAMC-TMX reached a joint agreement to make continual improvements to Indigenous monitoring.¹⁸ The pilot team worked with the IAMC-TMX Indigenous Monitoring Sub-Committee to build a monitoring program that incorporates Indigenous interests and concerns in CER pipeline inspections. Under this joint agreement, separate protocols were developed for monitoring, inspection, issues management, and conflict resolution.

From Fall 2017 to March 2023, the IM Program has supported Indigenous monitors from potentially impacted Indigenous Nations and communities across the pipeline route to participate in 148 compliance verification activities with the CER (e.g., joint inspections, inspection-related meetings, and emergency response exercises). Additional monitoring activities were undertaken with other federal regulators, including Inspection Officers from DFO and Parks Canada.¹⁹

Monitoring Socio-Economic Impacts

In addition to the IM Sub-Committee and IM program, IAMC-TMX also has a Socio-Economic Sub-Committee and a Marine Shipping Sub-Committee – both with a focus on monitoring the impacts of these energy lines.

The IAMC-TMX Socio-Economic Sub-Committee (SESC) focuses on ensuring that Indigenous Nations and communities are involved in the monitoring of and in addressing social, economic, health and cultural impacts, both positive and negative, of the Trans Mountain project. Key informant interviews and a review of project related documentation found that the IAMC-TMX's SESC began working with Simpcw First Nation and Lower Nicola Indian Band to support engagement sessions concerning building capacity to monitor socio-economic priorities related to TMX work camps.

Together with the Trans Mountain Corporation, the SESC identified impacts that are important to Indigenous Nations and communities with expectations that these will be tracked over time.²⁰ The SESC holds monthly discussions with TMC focused on tracking and reporting on co-developed, Indigenous-focused socio-economic indicators as an aspect of enhancing Indigenous participation related to the Trans Mountain Expansion project's existing Socio-Economic Effects Monitoring Plan (SEEMP). The SEEMP contains indicators to monitor key concerns raised by potentially impacted Nations and communities (such as jobs, business contracts, notifiable diseases, worker lodging issues, training, and community safety). Interviews with a representative of the SESC indicated that the IAMC has been successful at applying an Indigenous lens to tracking these indicators and the SESC is able to direct questions to TMC and work together to ensure that negative impacts are minimized and positive impacts are maximized. However, additional interviews with two representatives of the Indigenous Caucus of IAMC-TMX indicated that their experience with CER is that the federal regulatory regime generally does not effectively monitor socio-economic effects. These representatives noted that there are no formal CVAs related to SEEMP and the SEEMP does not adequately reflect Indigenous concerns. One Indigenous Caucus member of IAMC-TMX felt that the Committee does not grant the monitoring of social economic impacts a sufficient level of resources compared to the monitoring of environmental impacts associated with these large energy projects.

Documents published by the IAMC-TMX and Indigenous Caucus members have called for greater planning and monitoring of socio-economic effects of the pipeline.

Broader Impacts

Since 2018, the SESC has collected the views of Indigenous peoples including through mechanisms such as twice monthly SESC meetings, annual line wide events, a community-based socio-economic monitoring pilot initiated in 2019, and two Regional Working Group socio-economic monitoring pilots initiated in 2020. The overarching aim of these pilot initiatives is to strengthen Indigenous oversight regarding socio-economic risks and effects, including those related to five work camps in British Columbia and the large number of workers using temporary lodgings in both BC and Alberta. The SESC has also commissioned primary research in a number of areas.

The SESC continues to document lessons learned related to Indigenous socio-economic effects monitoring with the goal of developing advice to the CER as they undertake a review of guiding documents and policies. The SESC met with representatives from two federal departments – Women and Gender Equality Canada (WAGE) and Crown-Indigenous Relations and Northern Affairs Canada (CIRNAC) to better understand linkages between the work of the SESC and federal commitments to addressing Gender-based Violence (GBV), Missing and Murdered Indigenous Women and Girls (MMIWG), and implementation of gender-based analysis plus (GBA+).

Based on research and evidence collected, the IAMC-TMX made a submission to the House of Commons Standing Committee on the Status of Women (May 2022) as to the Socio-Economic impacts of energy lines particularly on women and more broadly on surrounding communities.

Monitoring Marine Impacts

Unique to the IAMC-TMX is the marine shipping environment. Key informant interviews with IAMC-TMX members and the IAMC-TMX regional engagements highlighted the importance of monitoring the marine impacts from the Trans Mountain Expansion project. According to two Federal Caucus members, the TOR co-development process helped call attention to the high level of importance placed on the marine environment. The importance of the marine environment was also emphasized in the Federal Court of Appeal's 2018 decision to quash the Government of Canada's original (2016) approval of the TMX Project, citing the need to take "into account the environmental effects of Project-related marine shipping in view of the requirements of the CEAA 2012, and the adverse effects of Project-related marine shipping on species at risk in view of any requirements of section 79 of the SARA".²¹ As a result of this decision, the federal government directed the CER to conduct a reconsideration hearing (see Box 2). There are now numerous accommodation measures being implemented to specifically address concerns in the marine and terrestrial environment.

Box 2: Timeline of Key Events from TMX Phase III Consultations to TMX Phase IV Implementation

November 2016	The Government of Canada approved the TMX Project subject to 157 conditions imposed on the proponent (Trans Mountain Corporation).
2016-2018	Indigenous groups, environmental groups, and municipalities challenged the Project decision by way of judicial review.
August 2018	The Federal Court of Appeal quashed the November 2016 approval of the Project on the basis that the National Energy Board (now CER) erred in its decision and stated that Canada failed to discharge adequately its duty to consult in Phase III consultations and in its decision to exclude marine shipping from the scope of its review.
October 2018	The Government undertook a reconsideration process to further examine the potential impacts of marine shipping activities and re-initiated Phase III consultations, including approval of a mandate to consider accommodations.
February 2019	The NEB [CER] submitted its <u>Reconsideration Report</u> for the Project, including 156 conditions directed at TMC and 16 recommendations directed at the GOC.

June 2019	Publication of the TMX <u>Crown Consultation and Accommodation Report</u> .
June 2019	The GOC re-approved the Project subject to 156 conditions imposed on TMC.

The Marine Shipping Sub-Committee is committed to the protection of the marine environment from the pipeline to the Westridge Marine Terminal. The Sub-Committee has focused on outreach and met virtually with representatives from 13 of the 33 communities along the marine shipping route. These sessions took place through Tier 1 (Indigenous-to-Indigenous) engagement. Conversations focused on four themes: engagement, marine monitoring, emergency management, and funding opportunities available through the IAMC-TMX. ²² The Sub-Committee was interested in learning about: how Nations/communities and leadership in the marine space would like to be engaged by the IAMC-TMX; existing community-based marine monitoring initiatives; and community capacity in emergency management and response. In addition, the evaluation's case study review found that the IAMC-TMX contribution program helped to fund a multi-Nation environmental monitoring collaboration led by Beecher Bay First Nation that trained and developed 8 IMs with diving certification to allow communities to map and create a baseline of the marine environment.

IAMC-Line 3 Indigenous Monitoring Program

In December 2017, the IAMC-Line 3 established an Indigenous Monitoring Sub-Committee to develop a monitoring program in which Indigenous Monitors would accompany CER inspectors on joint CVAs. It did so by issuing an *Expression of Interest* (EOI) to all potentially impacted Indigenous Nations listed in Annex A of the IAMC Terms of Reference. Following a screening and evaluation process, six Employers were selected.

When the IAMC-Line 3 was first established, the construction of the replacement line was already completed in Alberta. Since 2017, IMs have had opportunities to monitor construction activities across Saskatchewan and Manitoba, in addition to decommissioning inspections across all three segments in Alberta, Saskatchewan and Manitoba.

The program is being delivered through Contribution Agreements signed with several Indigenous Nations and organizations who are responsible for employing, training, equipping, and supporting the Indigenous Monitors. These include:

- One Indigenous Monitor representing Métis Nation Alberta, employed by Métis Nation Alberta, Region 3;
- Two Indigenous Monitors representing Métis Nation -- Saskatchewan, employed by Infinite Investments, wholly owned by Métis Nation -- Saskatchewan Western Region 3;
- Two Indigenous Monitors, one from Treaty 6 and one from Treaty 4, representing Saskatchewan First Nations, employed by Wicehtowak Limnos Consulting Services, wholly owned by George Gordon First Nation;
- Two Indigenous Monitors representing Manitoba First Nations, employed by Swan Lake First Nation; and
- Two Indigenous Monitors representing Manitoba Métis Federation, employed by the Manitoba Métis Federation

The Committee also partnered with the Saskatchewan First Nation Natural Resource Centre of Excellence, whose role was to assist in the development of training workshops and provide technical support for Monitors and Employers.

IAMC-Line 3 developed a number of training and capacity building programs including training sessions and workshops for IMs and IOs, some of which included elements related to Indigenous Knowledge. Portions of the training were mandatory for the IMs to gain access to the right-of-way (ROW). ²³

In 2019, IAMC-Line 3 offered regulatory capacity training to technical staff of Indigenous Nations impacted by the L3RP. A total of 73 participants from 42 First Nation and Métis Nation governments participated in the workshops. In 2020, the IMs participated in a variety of virtual training sessions including on species at risk, water monitoring, and emergency management preparedness.

IAMC-Line 3 provides advice, resources, and templates for Indigenous Nations developing their own Indigenous Monitoring program, including guidance documents related to chance find protocols, reporting process protocols, and engagement protocols.

Since 2018, the IAMC-Line 3 IMs have conducted over 46 joint inspections, inspection related meetings and emergency response exercises with the CER.

Impact of the IM Programs – Positive Progress

Investments in the IAMC IM Program

The IAMCs and CER invested extensively in developing the joint IM and IO training program. Interviews with CER representatives who were involved in developing the IM/IO training program indicated that each training session takes hundreds of hours of preparation and delivery time (research, developing training binders and updating slides, as well as the sheer logistics of organizing each session). While investments are high, an overwhelming majority of representatives of the Federal Caucus and Indigenous Caucus from both IAMCs indicated that, overall, the implementation of the IM program has gone fairly well in terms of program development and the actual training and integration of IMs into the CER inspection process.²⁴

Capacity Building of IMs and IOs

Members of the Indigenous Caucus for both IAMCs and the IMs the evaluation interviewed agreed that the establishment of the IAMCs has increased the resources and capacity of impacted Nations and communities to raise their concerns and, more importantly, to have trained IMs involved in the monitoring of these large energy projects.

Interviews with IMs connected to both IAMCs, as well as those who participated in the IAMC-TMX regional engagement sessions, revealed a high level of satisfaction with the IM training and the IM program. The IMs interviewed as part of the IM program case study indicated they have developed valuable monitoring skills that can be applied in other areas including potential employment with CER and/or the proponent.

In addition, these monitoring skills are seen by IMs who were interviewed as being transferable to other sectors such as mining, forestry, fisheries, etc.

Impact at the Community Level

The case study review of the IAMCs' IM Program found that the involvement of Indigenous peoples in the monitoring of these two energy projects are viewed very positively by CER, Indigenous representatives of potentially impact communities and Indigenous Caucus members of both Committees, particularly as it relates to the environment, worker and community safety, and the protection of culturally sensitive areas and traditional land. The project-level case study reviews and supporting regional-level engagements provided evidence of improved information sharing, training resources, and increased capacity for potentially impacted Nations and communities to participate in the regulatory oversight of these projects. Interviewees that participated in the project-level case study reviews and the IAMC-TMX regional engagement sessions noted the importance and positive impact that the Indigenous monitoring program is having at a community level primarily because it is

grounded in and incorporates Indigenous knowledge and values, it has led to “*boots on the ground*” and “*fins in the water*” (for TMX), and it has resulted in the establishment and/or documentation of local data and knowledge and principles in data collection and storage, e.g., who owns the data, how it is stored and who has access to it.

IAMC IM Program – Key Challenges

Readiness

While satisfied with the training, IMs interviewed as part of the case study review indicated that the initial IM training was stressful and intimidating. IMs who were interviewed indicated being unclear about what exactly the program would entail and questioned how the joint inspections would work in practice. All indicated being overwhelmed by the extensiveness of material, the new concepts introduced, and the number of acronyms used. Some IMs noted still not being sure of how the program would roll out on the ground following the training. To address some of these concerns, CER representatives indicated that they worked with the IAMC-TMX to develop a “IMSC 101” meeting (“the pre-session”) one week prior to training to help ensure the IMs are fully supported in participating in the joint IAMC-CER training session.

A few IMs interviewed and some of the IMs who participated in the IAMC-TMX regional engagements noted that much of the learning for Indigenous Monitors occurs on the ground during the CVAs.

Planning of Training

Discussions with CER staff indicate that some of the lack of preparedness of the Indigenous trainees may be attributed to a lack of capacity in the IAMC Secretariat to organize the joint training sessions. Planning for this training can be a complex activity, e.g., involving the inclusion of Elders to participate in the training and provide oral knowledge, in addition to opening each session with prayers and ceremonies. In some cases, the Inspection Teams also participated in walks led by Elders and a sweat lodge.

Interviews with two CER staff indicate that the Secretariat was not proactive in booking and arranging the joint training logistics and in sharing information with the communities in order to recruit the candidates to the IM program. These delays also impacted decisions related to the location and delivery of the training. As a result, in some instances, CER representatives noted that participants were not confirmed until just days before the training and some did not meet mandatory entry requirements. This likely impacted Indigenous Monitor trainees’ level of understanding of the IM program and the training.

Extensiveness of Indigenous Monitor Training

By contrast, interviews with senior CER staff noted that Inspection Officers hired by the CER are recruited based on their existing experience and education. Nevertheless, once recruited, CER’s training and development can take up to two years to ensure CER IOs have sufficient training to be granted the authority to issue a stop work notification if required.

The joint Indigenous Monitor-Inspection Officer training program was designed to quickly prepare and move IAMC IMs into the field to conduct joint inspections. The training also serves to:

- Introduce IOs to new ways of working with Indigenous monitors within the CVA process;
- Introduce IMs to the CER regulatory process;
- Introduce IMs and IOs to allow them to get to know each other before joint inspections; and
- Increase the IOs’ understanding of Indigenous traditional knowledge and concepts including Indigenous sites of significance.

“For myself, much of my learning was on the ground and learning about Indigenous culture and practices with local IMs and understanding their concerns. In one inspection, IMs raised concerns around traffic management, camp usage and public health for masking, etc. When it comes to very technical and equipment operation, we sometimes have to work around IM issues. IMs have helped me understand community economic development issues and sites of significance.”

- Source: Focus Group CER IO

IAMC-Line 3 Indigenous Monitor interviewees highlighted that the IM program has helped to build capacity within the CER to understand Indigenous perspectives and promote cross-cultural cohesion as well as opportunities for regulatory capacity building. They reflected that the proponent (Enbridge) seemed to take the program seriously, which manifested in an openness to integrating Indigenous perspectives into project activities. One IAMC-Line 3 Indigenous Monitor reported that they increasingly felt supported by CER IOs and that the regulator “had their backs.” By contrast, in two of the IAMC-TMX regional engagement sessions, participating IMs identified instances where they did not feel supported and sometimes felt that the Indigenous Monitor role was seen as tokenism – particularly by the proponent. The extent to which their views can be generalized to all Indigenous Monitors is unknown but are nevertheless indicative of a potential issue.

A focus group with IOs conducted as part of the horizontal case study on the IM programs indicated positive experiences from the joint training, including helping to develop a better understanding of Indigenous ways of knowing and key concerns related to the pipelines as well as learning how they will work together on the ground. CER staff interviewed as part of the evaluation described a significant shift in their approach to the CVAs and what they looked for during joint inspections.

While two representatives of the IAMC-TMX IM Sub-Committee feel that the training of IMs is comparable to CER IO training, they also recognize that more training is needed. Engagement with IMs (as part of the case study review and the IAMC-TMX regional engagements), CER representatives, and IOs indicate that a number of IMs struggle with submitting their monitoring report in a timely manner. This was supported by the IMs interviewed from both Committees, who indicated a desire for more training in report writing. Those interviewed also noted that Indigenous Monitor reports were often inconsistent and difficult to interpret due to a lack of training as it relates to interpreting project information and inconsistent reporting methods.

“The biggest challenge for IMs is report writing. There is no uniformity although we have been given a template. I thought it was too in-depth so I developed my own and simplified it. We have a week to write the report. It took a week to frame how to write the reports. I modeled mine after the IOs template but streamlined. Some IMs reports were only a couple of paragraphs. For Line 3, we also have one report from the First Nation Indigenous Monitor and the Métis Nation Indigenous Monitor. While complicated, I don’t think they should be integrated. Throughout an inspection, we have conversations and seek agreement.”

- Source: Line 3 Indigenous Monitor interview

The IMs interviewed and engaged for this evaluation recommended that all IAMC IMs receive training on project alignment sheets, ²⁵ proponents’ Environmental Protection Plans, and other key materials prior to working on the right-of-way.

A few representatives of the IAMC-TMX Indigenous Caucus identified challenges in NRCan approving IAMC funding requests for further IM training (e.g., TapRoot investigation training which was requested for IMs but as of May 2023, had yet to be approved by NRCan).

Long Term Sustainability of the IM Program and Positions

IAMC IMs are employed by communities through the IAMC contribution program. In addition to the IAMC IMs, CER and the respective proponents also employ Indigenous Monitors.

While it is unclear whether the IAMCs have a set target for training of IMs and number of employment opportunities expected, a representative of CER noted the IAMCs and CER have supported the training of 70 Indigenous Monitor candidates and currently have approximately 20 IMs working on CER inspections. For IAMC-Line 3, of the nine IMs originally trained, only two remain. Interviews with and data provided by CER representatives indicate that the retention rate of IMs is not at a level expected nor desired. The evaluation found evidence through the interviews, the case study reviews, and the IAMC-TMX regional engagements that a number of key challenges remain in relation to the long-term sustainability of IAMC Indigenous Monitor positions:

- Lack of sustainability of the Indigenous Monitor positions, which normally involve part-time, intermittent work. During the IAMC-TMX regional engagement sessions in spring 2022, several Indigenous Monitor participants discussed the challenges of remaining an Indigenous Monitor when the opportunities for work are so infrequent. A number were looking for other employment opportunities and some indicated having taken employment with either CER or the proponent.
- The IAMCs do not have a standard rate of pay for the IMs. Rather, each community sets its own rate of pay, with funding flowing to the communities through the IAMC contribution program.
- Inadequate planning and time to prepare for each CVA. The IMs and representatives of the IAMC-TMX Monitoring Sub-Committee interviewed indicated that IMs often receive very short notice about a CVA, which leaves little time to reach out to communities and engage with Knowledge Keepers and Elders in order to identify community concerns and sites of significance. An additional challenge noted by two IMs and a few Indigenous Caucus members of the IAMC-TMX is that, under the CER Act, sites of significance are not embedded in onshore pipeline regulations and are therefore beyond the scope of compliance oversight.

Further Evolution of the IAMC IM Program

There is a desire among Indigenous Caucus members of both committees to develop IMs to be on par with IOs in terms of training, skills, roles and responsibilities. Some members of the Indigenous Caucus of the IAMC-TMX articulated a future vision for the IAMC-TMX IM program to build a cadre of Indigenous Regulatory Officers. One Indigenous Caucus member of IAMC-Line 3 indicated that a goal of the IAMC should be to standardize inclusion of Indigenous monitoring in the compliance oversight process. However, at present, under the *Canadian Energy Regulator Act*, the CER does not have the authority to delegate its responsibilities as a regulator.

Effectiveness: Intermediate Outcomes

Summary of Findings

The IAMCs have led to a more partnership-based approach among Committee members. For example, the IM programs and supporting policy framework and procedural changes are the result of a strong partnership between the IAMCs, CER, NRCan, and the other regulatory departments. However, these

partnerships have not transcended to the broader community level. Slowed implementation (based on the timelines to develop the TOR), as well as the COVID-19 pandemic, have limited the expansion of community partnerships.

While Indigenous Caucus members feel the IAMCs have led to more meaningful engagement with the regulators, most are hesitant to presume this will continue for the life of the project based on what is seen as declining senior level engagement and the lack of long-term funding.

The IAMCs are helping to drive broader systemic change, including organizational change with the CER and consideration of expansion of IM programs to other energy lines (e.g., Nova Gas Transmission Ltd). Insight from the IAMC-TMX Socio-Economic Sub-Committee has been reflected in the Final Report of the National Inquiry on Missing and Murdered Indigenous Women and Girls and is influencing broader ecosystem change and support to broader federal priorities.

The implementation of the IAMCs was expected to support the following intermediate outcomes:

- Partnerships are formed with Indigenous communities based on mutual respect, information sharing, and achievement of common objectives; and
- Indigenous groups are able to engage meaningfully with the regulators and to have their concerns and needs addressed over the full lifecycle of these energy infrastructure projects.

These expected results align to the Indigenous Caucus members' key priority of driving broader systemic change and the IAMCs ability to advise decision-makers and ultimately decision-making authorities. While it is too soon to report on full achievement of these outcomes (the energy infrastructure projects have not completed their full lifecycle - L3RP is now in its operation phase while TMX remains under construction), this section presents evaluation findings related to results observed to date.

Partnerships appear to remain at the IAMC level.

The evaluation sought to determine if the IAMCs have led to increased partnerships between federal departments and agencies and Indigenous communities. While neither IAMCs' TOR indicates that the IAMCs are a "partnership", both Committees have been referred to as a partnership in various communications documents (e.g., IAMCs' websites, annual reports, and newsletters).

In the key informant interviews, a few Federal Caucus members from both Committees used the term "partnerships" when discussing the IAMCs and how they are working with Indigenous Caucus members as well as representatives from potentially impacted Nations and communities. One Federal Caucus member from the IAMC-Line 3 indicated that strong partnerships among all parties potentially impacted by these projects are critical to the success of these large energy projects.

In addition, the evaluation found reference that the IAMC IM programs are a partnership between the IAMCs and the federal regulators – particularly the CER. For example, the IAMC-TMX identified 17 Indigenous partner communities and organizations across the pipeline route who participate in oversight with federal regulators, including the CER, DFO and Parks Canada.²⁶ For the IAMC-Line 3, the IM program is being delivered through partnerships with several Indigenous Nations and organizations who are responsible for employing, training, equipping, and supporting the Indigenous Monitors.

While partnerships have been formed, the evaluation found that Indigenous Caucus members perceive that the relationship continues to be driven by government as opposed to a true partnership. A group interview with representatives of the IAMC-TMX Indigenous Caucus and Caucus resources indicated that they believe the IAMC-TMX has evolved from a partnership/co-development model to an NRCan-driven project. Among these members, there is a perception that federal regulators continue to demonstrate a paternalistic nature in their working relations with Indigenous Caucus members – specifically, as NRCan continues to control the IAMC budgets, signing of contribution agreements, and financial information.

“Decision-making is not truly shared right now. The buck stops with government. We need shared decision-making models.”

- Source: Interview Indigenous Caucus IAMC-TMX

“It is also a question of resources. They [the IAMCs] aren’t structured in a way to support the Indigenous Caucus which has the bulk of work and expertise. We make decisions together by consensus – decide on priorities and budget but the problem is that all the purse strings are held by Canada. NRCan has lots of staff and lots of turnover – we can’t mobilize resources the same as the federal departments.”

- Source: Interview Indigenous Caucus IAMC-TMX

“The weakness is that we don’t have decision making power. We are not a board, not incorporated, and if we make bad decisions, we don’t have to be accountable for it. We don’t have our own employees. We constantly have the government holding our hand.”

- Source: Interview Indigenous Caucus IAMC-Line 3

Strengthening Indigenous Relationships

Participants in three of the four regional engagements for the IAMC-TMX highlighted the IAMCs as helping to make connections across potentially impacted Nations and communities, which has led to more transparent discussions with the proponent and an ability to share lessons learned and wise practices across the potentially impacted Nations and communities. Participants noted that the IAMCs have created a sense of connectedness (e.g., no longer alone) and has helped to improve communication between Nations and communities, leading to shared interest in working together. The IAMC are viewed as fostering the power of the collective.

From a Métis perspective, key informants highlighted the historic separation of Métis and First Nations engagements. As a result of the IAMCs, many key informants witnessed these groups coming together and working collaboratively and respectfully as it relates to these energy projects.

The IAMC have provided an opportunity for Indigenous concerns and needs to be identified over the lifecycle of the project.

Indigenous Caucus members of both IAMC-TMX and IAMC-Line 3 indicated that the IAMCs process has provided Indigenous representatives of potentially impacted Nations and communities with a voice at the table and an opportunity to advise federal regulators – particularly the CER and NRCan as the organizations that support natural resources and energy industries in Canada. Representatives of CER and NRCan also agreed that the IAMCs have provided a mechanism for bringing forward the concerns, advice and recommendations of potentially impacted Nations and communities.

There is concern among the Indigenous Caucus members, as well as those interviewed from the IAMC funded projects, about the extent to which the federal government is committed to the IAMCs over the life of the projects. The Government of Canada has made public commitments to establish the IAMCs for the life of these energy pipelines. However, as is the case for many federal programs, funding approvals for IAMCs have been time limited (e.g., 5-year funding with options for renewal and short-term contribution funding).²⁷ As noted by one member of the Indigenous Caucus of IAMC-Line 3, ongoing renewal is a burden to Indigenous Caucus members. The majority of Indigenous Caucus members from both IAMCs and Indigenous leaders reached through the IAMC-TMX regional engagements emphasized that the short-term nature of government funding demonstrates, from their perspective, a lack of commitment to the life of the projects. This is an increasing concern to the Indigenous Caucus of IAMC-Line 3 as to how the IAMC will evolve to address the next phase of the project now that Line 3 is fully decommissioned and its replacement line moves into the operational stage.

“It is difficult to complete the work of the Committee without knowing if it is going to be renewed. This whole evaluation process becomes this chicken and egg situation. The largest limitation is the small timeframe by which the funding is provided. The commitment of the Minister was to the lifecycle of the project, but the funding was only 5 years.”

- Source: Interview IAMC-Line 3 Indigenous Caucus member

“Committee members, in all that they do for their communities, can do without the burden of renewal and other functions that are not issues-based.”

- Source: Interview IAMC-Line 3 Indigenous Caucus member

Due to the lack of capacity in communities, those consulted through the IAMC-TMX regional engagements emphasized the need for support and capacity building to even apply for IAMC funding. Participants noted that the amount of effort required to apply for a \$50,000 one-time grant and the related reporting requirements are a deterrent to application. The need for long-term or multi-year funding is supported by NRCan’s own findings which indicate that, from the initial year of delivery, multi-year Contribution Agreements which bring together multiple Indigenous groups are most effective at increasing Indigenous participation in energy infrastructure development.²⁸

Driving Broader Systemic Change

In the IAMC-TMX October 2021 comments on the federal government’s Indigenous Knowledge Policy Framework for Proposed Project Reviews and Regulatory Decisions, the Chair of the IAMC-TMX Indigenous Caucus credits the CER with recognizing that structural changes must occur for the standards espoused in the UN Declaration on the Rights of Indigenous peoples to flourish. Examples provided include promoting a work culture where employees

are receptive to critique and feedback, actively supporting the work of the Indigenous Caucus and the IAMCs and acknowledging systemic racism in its institution. Through regional engagements, the majority of IAMC-TMX IMs agreed that there have been improvements over time related to racism experienced while conducting their roles.

"The IAMCs demonstrate an effort of the government of Canada towards Reconciliation and inclusion. We are seeing more movement to Indigenous Advisory Committees. This is a good step towards building trust. More government regulatory processes need to bring in the Indigenous world view."

- Source: Interview Indigenous Caucus IAMC-Line 3

Broader systemic change, from the Indigenous Caucuses' perspective, means that changes introduced as a result of TMX and L3RP transcend these projects and lead to broader changes such as similar advisory and monitoring bodies and/or Indigenous monitoring programs on other energy and/or resource projects, and broader policy changes.

One federal representative of the IAMC-TMX indicated seeing evidence of change in large systems to address and help remove systemic biases. One representative from the IAMC-Line 3 Indigenous Caucus and one from IAMC-TMX noted that the IAMCs are changing the culture within the CER and setting a new standard regarding Indigenous monitoring. Reconciliation is now one of the CER's four Strategic Priorities. The CER also co-endorsed a statement of what Reconciliation means for the CER and within its mandate, which was published on its website in summer 2022.²⁹ Through this approach, CER aims to transform the way it works with the Indigenous peoples of Canada, with a commitment to implementing the United Nations Declaration on the Rights of Indigenous peoples, by enhancing their involvement in how CER discharges its mandate recognizing their unique cultures, knowledge and histories; building renewed relationships based on the recognition of rights, respect, co-operation and partnership; improving the cultural competency of the CER and its staff; and driving meaningful change in the CER's requirements and expectations of regulated industry. Examples of changes introduced by the CER as a result of learnings from its work with the IAMCs and broader engagement with Indigenous peoples include: adjusted compliance verification processes (to require scoping discussions with the Indigenous monitor team members); adjusted data systems to allow for more focused analysis (e.g., highlighting Indigenous comments so they can be compiled then analyzed and/or communicated in the summaries); and additional IO training recently provided to CER staff related to the identification and management of Chance Finds.³⁰

"It is hard to change the system – we need to move away from traditional ways of doing things. Large number of [federal] players are now recognizing this."

- Source: Interview Federal Caucus IAMC-Line 3

Two federal officials and a representative of the IAMC-TMX Socio-Economic Sub-Committee also identified how the IAMCs are influencing broader change in government. For example, one senior leader in NRCan noted how the work of the IAMC-TMX Socio-Economic Sub-Committee fed into the Final Report of the National Inquiry on Missing and Murdered Indigenous Women and Girls and is influencing broader ecosystem change and support to broader

federal priorities. In addition, representatives of CER indicated that they, as an organization, have taken what they have learned from the IAMCs' IM program and applied it to other IM programs. For example, in 2022 the CER announced the creation of an Indigenous Monitoring Program for the Nova Gas Transmission Ltd (NGTL) system.

An overwhelming majority of Indigenous Caucus members from the IAMC-TMX and a few from IAMC-Line 3 indicated a desire for the IAMCs to expand to other energy projects and/or other projects outside the energy sector (e.g., mining, forestry, etc.). Two Indigenous Caucus members of the IAMC-TMX noted disappointment that the federal government has not established an IAMC for the NGTL project.

"Why do we only have IAMCs for these projects? Why these two projects and not others such Nova Gas Transmission Line? Why not other large energy projects?"

- Source: Interview Indigenous Caucus IAMC-TMX

Two representatives of the Indigenous Caucus of the IAMC-Line 3 noted that regulators (e.g., CER, Impact Assessment Agency Canada, as well as provincial regulators) are also undertaking Section 35 consultations. While this is allowed within the federal framework, these individuals are not supportive of regulators overseeing the Section 35 Duty to Consult process as well as being the regulator.

Effectiveness: Progress Towards the Achievement of Long-Term Outcomes

Summary of Findings

The IAMCs were viewed by the majority of both federal and Indigenous respondents as a significant improvement over how, historically, Indigenous peoples were consulted and engaged regarding large projects that impact their lands. The IAMCs are seen as a recognition of the rights of potentially impacted Indigenous Nations and communities to be involved in the regulatory review and oversight processes. The IAMCs allow for a number of issues, that are not rights-based issues,³¹ to be resolved.

Those interviewed identified how the IAMCs have led to changes in how the regulators work with impacted Nations and communities to improve the regulatory review process and oversight of these projects. The evaluation found that, as a result of the IAMCs, participating Indigenous leaders have increased comfort and confidence in the regulatory process. The IM program is viewed as an essential component of the IAMCs as it has built capacity of potentially impacted communities to have their people on the ground monitoring the project and reporting back to community leaders and IAMC representatives.

Indigenous Caucus members indicated that the IAMCs were effective in helping to address Indigenous concerns and have helped the projects progress at a pace faster than what would have been without the IAMCs. Some senior federal leaders concurred with this.

Ultimately, it is expected that the IAMCs will result in:

- A renewed relationship with Indigenous peoples based on trust, recognition, rights, respect, cooperation, and partnership; and
- Increased Indigenous and public confidence in developing and bringing resources to market.

While it is too soon to report on the achievement of these outcomes, this section presents the evaluation findings based on the results observed to date.

There is a renewed relationship based on the recognition of rights, respect, cooperation, and partnership.

“Project delays and certainly the co-development process took the first two years. It takes time building trust and relationships and mapping the way forward.”

- Sources: Interview Indigenous Caucus, Line 3

The IAMCs are seen as unique horizontal Indigenous and government advisory mechanisms in Canada as they relate to large energy projects. While not perfect, the IAMCs were viewed by an overwhelming majority of those interviewed from the IAMC Indigenous Caucuses and the CER as a significant improvement over how, historically, Indigenous peoples were consulted and engaged regarding large projects that impact their lands (i.e., submissions to the regulator on the proposed project, with limited follow up and the engagement with potentially impacted Nations on an individual basis). While representatives of the other federal regulators did not discuss if the IAMCs were an improvement, they did note positive progress made under the IAMCs and the fact that issues are now being resolved with the help of the IAMCs as opposed to civil unrest and/or court action.

“It has been a very challenging process but I think the Committees have accomplished a lot and moved the bar in an extraordinary way compared to how impacted communities were engaged in the past. The IAMCs are a tremendous success.”

- Source: Interview Federal representative, IPO-West

Through interviews, Indigenous Caucus leaders for both Committees viewed the IAMCs as a recognition of the rights of potentially impacted Indigenous Nations to be involved in the regulatory review and oversight processes. Further discussions with Indigenous leaders through the IAMC-TMX regional engagements identified the IAMCs as a mechanism to raise their concerns as they relate to these large energy projects. However, some representatives of the Indigenous Caucus of both IAMC-TMX and IAMC-Line 3 indicated facing capacity challenges to fully engage with members of potentially impacted Nations and communities. This is attributed to the COVID-19 pandemic which restricted in-person engagement and the limited IAMC resources and staff dedicated to supporting the Indigenous Caucuses in undertaking the required level of engagement. Indigenous Caucus members of both committees reinforced the importance of outreach, particularly to those Nations and communities that either lack awareness or are disengaged from the process.

Those interviewed from the IAMCs indicate that the IAMCs have contributed to shared learnings. As noted by a Federal Caucus member, there is a high value in this learning and working together differently. Specifically, there are a number of non-rights-based issues that can be resolved through the IAMCs, such as building Indigenous monitoring of the project, identifying sites of significance, and emergency response.

One representative of the Federal Caucus of IAMC-TMX indicated that the progress made on the TMX project would not have been possible without the IAMC. This finding is supported by a few members of this IAMC's Indigenous Caucus who indicated that, without the IAMC, there would likely have been unrest, disruption, and costly protests against the energy project.

The evaluation found further evidence that the IAMCs are contributing to a renewed relationship. For example, one Secretariat staff noted a federal senior leader telling members of an IAMC-TMX Sub-Committee that their work is changing Canada and is introducing a whole new way of working with Indigenous communities to strengthen economic development and oversight.

Confidence of Indigenous peoples in the process of bringing resources to market

The IAMCs were intended to increase confidence of both Indigenous peoples and the general public in the process of bringing energy resources to market. This is a goal of NRCan and expected outcome of the IAMCs. However, it should be noted that the process for bringing resources to market in Canada extends far beyond the regulatory and monitoring context of the IAMCs.

From the perspective of the Indigenous Caucus of the IAMC-TMX, the initiative was an experiment that has proven to be a success – demonstrating a new way of integrating Indigenous perspectives and interests into project oversight based on joint learning, collaborative problem-solving, mutual respect, and a shared interest in reducing the impacts of the TMX project on the environment and Indigenous interests. For the IAMC-Line 3 Indigenous Caucus members who were interviewed, the IAMCs have increased the comfort and confidence of Indigenous Caucus representatives in the regulatory process. The IM program is viewed as an essential component of the IAMCs because it allows potentially impacted Nations and communities to have people on the ground looking at the project and reporting back to community leaders and IAMC representatives.

The evaluation was unable to determine if the IAMCs have increased broader public confidence in the energy to market process in Canada. For example, in 2017, Petronas (the proponent) decided not to proceed with the Pacific NorthWest LNG project “after a careful and total review of the project amid changes in market conditions”.³² This risk remains real today. NRCan continues to identify challenges to the competitiveness for the natural resource sectors, including public confidence in natural resources development, among its key corporate risks.³³ It was difficult for this evaluation to assess whether the IAMCs are helping to address public and Indigenous concerns related to the transfer of energy to the market via TMX and Line 3 given challenges in reaching Indigenous peoples and the broader public.

Efficiency

Summary of Findings

The IAMCs are generally viewed as having the right composition and structure, although some see the need for greater participation of provincial regulators and other federal government departments.

There is a desire among Indigenous Caucus members – particularly from the IAMC-TMX – for stronger governance processes and practices, knowledge management of IAMC documents, and delegations of authorities and decision-making. Members of the Indigenous Caucus of IAMC-TMX feel that the lack of strong governance processes and practices have led to inefficiencies caused by decisions being revisited when there are changes in leadership.

Over the first 5 years of operation (2016-17 to 2020-21), the IAMCs underspent by approximately \$7 million, which is attributed to delays in establishing the Committees and COVID-19. The IAMCs were granted flexibility to reprofile unspent funds to future fiscal years. While related results are outside the temporal scope of this evaluation, financial data indicates that in 2021-22, actual spending by both NRCan and CER exceeded planned expenditures.

IAMC-TMX entered 185 Contribution Agreements (“Contribution Program-funded projects”), and IAMC-Line 3 entered 94 Contribution Agreement to-fund projects from 2016-17 to 2020-21, respectively.

The majority of those interviewed for this evaluation noted that the IAMC Secretariat is not operating optimally. The Secretariat has experienced a high level of turnover, including staff in the G&Cs unit. Use of temporary staffing measures and a lack of forward planning that allocates resources (money and staff) to priorities may limit the ability of the Secretariat to fully support the expectations of the IAMCs’ Indigenous Caucuses. Given these challenges, the IAMC-TMX Indigenous Caucus would like the Secretariat positioned structurally outside of government – reporting directly to the Indigenous Caucus.

While changes have been made, Indigenous Caucus members of the IAMC-TMX believe that the administration of the contribution program continues to be inefficient and paternalistic, controlled by government and does not reflect commitments to Reconciliation and self-determination.

There is evidence that processes and tools have been developed to support the IAMCs. The IAMC contribution agreements also supported projects designed to increase Indigenous access to information, tools and/or other resources regarding energy infrastructure development.

Departments are using a number of performance measurements and indicators to track progress under the IAMCs; however, these are primarily output focused.

IAMC Model and Governance Structure

The IAMC model is viewed as supporting the achievement of intended outcomes.

The IAMCs are generally viewed by all parties as having the right composition and structure. IAMC-TMX has six sub-committees (outlined in Table 1) which are composed of IAMC members, representatives of the potentially impacted Nations and communities, and subject matter experts (including CER). The IAMC-Line 3 has four sub-committees whose membership is drawn from existing IAMC membership and subject matter experts of each participating department and agency (i.e., both NRCan and CER). Two Indigenous Caucus members of IAMC-Line 3 suggested that turnover in membership should be further staggered to improve Committee continuity.

Some of those interviewed indicated a need to continue to evolve the composition of the IAMCs. While a few representatives of the Federal Caucus for both Committees and a few representatives of the IAMC-TMX Indigenous Caucus identified the need to engage with provincial regulators, several Indigenous Caucus members of both Committees indicated they should only be invited on an as-needed basis. In addition, some members of the IAMCs’ Federal Caucuses indicated the need for the proponents (TMC and Enbridge) to be part of the IAMC discussions. While representatives of the proponents participate in some of the IAMC-TMX Sub-Committees, they are not a member of either IAMC and a recommendation for them to become members was not strongly supported by members of the IAMC-TMX Indigenous Caucus. The TORs for both Committees indicate that the Committees will proactively pursue engagement with the proponent, with IAMC-Line 3’s TOR indicating that the proponent will be invited to Committee meetings on a regular basis. Follow up interviews with Secretariat staff confirms that the proponent regularly attends the IAMC-Line 3 meetings.

Indigenous Caucus members of the IAMC-TMX identified the need for more active engagement of DFO, CCG, and TC, as well as the need for the other government departments (OGDs) to also be represented – specifically Crown and Indigenous Relations and Northern Affairs Canada and Indigenous Services Canada.

A limited number of IAMC-TMX Federal Caucus members indicated that the IAMC model itself may not be efficient given the complexity of the model and resource requirements (as noted earlier in this report under Continued Relevance).

There is a need for stronger governance practices and processes

Those interviewed from the IAMC-TMX Indigenous Caucus and a few representatives of IAMC-Line 3 underscored the impact that a lack of standard and formal governance practices and processes is having on the effectiveness of the IAMCs. Perceived deficiencies include:

- Lack of long term, forward planning.
- Limited operational planning for both IAMCs which includes the allocation of resources to key commitments that aligns with the IAMC and Secretariat resources. While IAMC-Line 3 has work plans with high level budgets, at both the Committee and Sub-Committee level, and the IAMC-TMX has Sub-Committee work plans, interviews with some federal representatives from NRCan and a few Federal Caucus members of both Committees indicate that the governance processes could be strengthened, including IAMC planning that adequately reflects annual resource levels (including staff).
- Slow response time from Secretariat staff.
- Lack of standard meeting structure and discipline.
- Limited Secretariat support to the Indigenous Caucuses.
- Lack of detailed records of decisions (RODs), standard operating procedures (including those at the Sub-Committee level) and ongoing monitoring of the RODs. Some recent improvements were noted with staff from the Naut'sa mawt Resources Group (NRG) ³⁴ now taking notes for the IAMC-TMX and supporting the work of its Sub-Committees. The challenges related to this deficiency are compounded by a lack of a central repository of IAMC documentation, policies, and procedures that is accessible to all members of the IAMCs including information used by or produced by the IAMCs. Given the lack of formal tracking of Record of Decisions, a few of the Indigenous Caucus members of IAMC-TMX indicated experiencing constant review of past decisions taken – particularly given the high turnover of staff in NRCan's Partnerships & Engagement Branch, Federal Caucus members, and IAMC Secretariat staff.
- A lack of clarity on roles, responsibilities, and where the authorities for decision-making currently rest.
- For the IAMC-TMX, it was noted that the Committee has not been able to undertake regular review of financial information associated with the IAMC, including the G&Cs program as well as the spending of the other federal departments and agencies in support of IAMC work.

These challenges appear to be less significant for IAMC-Line 3. A few of the Indigenous Caucus members consulted from the IAMC-Line 3 noted stronger governance practices but did indicate that further improvements could be made to the records of decision and monitoring of implementation of decisions taken.

Adequacy of Resources

The IAMCs are an interdepartmental initiative with funding from several federal departments, each of which have different financial systems to track their spending related to the IAMCs. Participating departments are not required to report centrally nor to the IAMC Secretariat within NRCan on annual spending in relation to what was planned. In addition, for the fiscal year (2016-17), funding for the creation of the IAMCs was to be reallocated based on participating departments' existing funds. These factors presented significant challenges to the evaluation team in understanding actual funding allocated to the IAMCs and changes in relation to planned versus actual spending

year over year. Regardless, the review of the financial data suggests that resources were not used as planned. Between 2017-18 and 2020-21, a total \$60.2 million of expenditures was planned and \$51.6 million was spent – a difference of approximately \$8.6 million (Table 4).

Table 4. Total Planned and Actual Expenditures by Department, 2017-18 to 2020-21

Department	Planned Expenditures	Actual Expenditures
Natural Resources Canada	\$50.7 million	\$38.1 million
Canada Energy Regulator	\$6.6 million	\$11.1 million
Transport Canada	\$0.81 million	\$0.54 million
Fisheries and Oceans Canada/Canadian Coast Guard	\$2.1 million	\$1.91 million
Environment and Climate Change Canada	\$0.003 million	\$0.002 million
Total	\$60.2 million	\$51.65 million

Source: Financial data provided to the evaluation team by each Department in consultation with their financial advisors.

As previously noted, this under-spending may be attributed to the time it took to co-develop the TORs for each Committee and for the IAMCs to become fully established and operational.

“Project delays and certainly the co-development process took the first two years. It takes time building trust and relationships and mapping the way forward.”

- Sources: Interview Indigenous Caucus, Line 3

In addition to these delays, the IAMCs had to significantly pivot to support communities in responding to the COVID-19 pandemic and ensuring ongoing capacity building and monitoring of the respective Lines. During this period, overall, the IAMCs spent approximately 14% less than planned; approximately 25% less than planned was spent on the G&Cs program.

As documented in Table 5, to the end of 2020-21, all departments with the exception of CER underspent on their IAMC budget. However, there was flexibility granted to the IAMCs to reprofile money that was not spent as planned in any given fiscal year into future years. Between 2017-18 and 2019-20, NRCan reprofiled a total of \$13,996,697 into 2020-21 and 2021-22. While outside the scope of the evaluation, it is important to note that in 2021-22, CER's actual expenditures (\$3.19 million) continued to exceed planned (\$1.52 million). In 2021-22, actual spending for NRCan (\$20.03 million) also surpassed planned (\$16.19 million). The result is a total underspend by NRCan over the entire period estimated at approximately \$7 million.

As previously noted, the IAMC are viewed by a number of Federal Caucus members from both Committees as requiring a higher investment than originally anticipated to support the ongoing operations of the Committees. For example, CER was allocated a total of \$8.1 million in temporary funding over five years, including 6 FTEs for the first year and 10 FTEs for the subsequent four years. On average, CER has dedicated approximately 18 employees year over year to support Committee related activity. NRCan was allocated funding for up to 13 full time equivalent employees (FTE). Currently, NRCan has 20 employees dedicated to support the functioning of the Committees. Other departments felt resourcing levels were appropriate. Some Indigenous Caucus members interviewed expressed concern they are investing more time than anticipated to participate in the IAMC, which is not fully

compensated. Many Indigenous Caucus members have other commitments, including but not limited to full-time positions in other organizations and/or in their community. As a result, some IAMC members indicated being stretched by their IAMC commitments.

Table 5: Year over Year Planned and Actual Expenditures (\$) by Department, 2017-18 to 2020-21

Federal Organisation	2017-18		2018-19		2019-20		2020-21		Total	
	Planned	Actual	Planned	Actual	Planned	Actual	Planned	Actual	Planned	Actual
NRCan	7,498,691	5,945,651	10,643,699	9,249,777	11,999,254	10,764,195	20,513,738	11,994,115	43,156,691	32
CER	1,389,091	2,149,031	1,862,037	2,999,299	1,862,037	2,839,027	1,518,037	3,136,852	6,631,202	11
TC	271,903	50,426	181,270	131,826	177,576	187,965	182,992	\$166,994	813,741	53
DFO/CCG	618,409	555,636	485,838	504,896	484,884	435,448	484,876	399,078	2,074,007	1,8
ECCC	10,000	4,600	10,000	9,900	10,000	5,800	--	--	30,000	20
	2,289,403	2,759,693	13,182,844	12,895,698	14,533,751	14,232,435	22,699,643	15,697,039	52,705,641	45

Source: Financial data provided to the evaluation team by each Department in consultation with their financial advisors.

Grants & Contribution Program

The IAMCs had aimed to have the full allocation of their grants and contributions (G&Cs) budget distributed to approved projects by 2021-22. From 2016-17 to 2020-21, the IAMC-TMX entered into 185 Contribution Agreements and the IAMC-Line 3 entered into 94 Contribution Agreements to fund IAMC-related projects. The majority of the Contribution Program-funded projects in both Committees received funding below \$250,000. Evidence indicates that NRCan set a target of 30 signed contribution agreements to support for Indigenous participation in energy infrastructure development in BC and Alberta over a two-year period. This target was decreased from an original target of 38, which does not seem to reflect the reality of the number of funding applications and agreements signed year over year.

The evaluation identified several factors impacting the application and processing of the IAMC contribution funding agreement including: delays in fully establishing the IAMCs; lack of awareness of the program among potentially impacted Nations and communities; capacity of Nations and communities to apply for funding; a lack of capacity in NRCan's G&Cs unit to support a contribution program of this size; and administrative barriers.

The decision-making process regarding funding to communities was intended to be built directly into the IAMC. Interviews with IAMC-TMX Indigenous Caucus noted that at one point the funding proposals could be approved by the IAMC, whereas now it goes to an ad hoc G&Cs Sub-Committee (housed within the IAMC) and then to NRCan who has the final decision and approval. For the IAMC-TMX, the G&Cs Sub-Committee was created as an effort to separate the approval process from government, but instead a few Indigenous Caucus members indicated that this new process is less efficient – with NRCan continuing to have final decision-making power. Representatives of the Indigenous Caucus of IAMC-Line 3 also noted that the G&Cs processes for proposal review, approval and distribution of IAMC funds were inefficient. As a result, Indigenous Caucus members of the IAMC-TMX and two Indigenous Caucus members from the IAMC-Line 3 believe that the administration of the contribution program continues to be paternalistic, controlled by government and does not reflect commitments to Reconciliation and self-determination.

"I don't think that the Indigenous membership of the Committee was taken seriously by the Secretariat in terms of budgets. They were micromanaging and telling us how to spend it. We always had to revise our strategic plans around their mandates."

- Interview: Indigenous Caucus, IAMC-Line 3

As noted by two senior government officials, the IAMCs were a new and innovative model placed within a government system guided by restrictive rules and processes for areas such procurement, contracting, hospitality, security requirements, etc. The differences between the expectations of the Indigenous Caucus and ability of the Federal Caucus to quickly implement requests has created frustration and tensions and declining levels of trust among Indigenous Caucus members in the IAMC process.

Participants in the IAMC-TMX regional engagement sessions and members of the Indigenous Caucus for both IAMCs encouraged greater autonomy and decision-making authority within the IAMCs regarding how funds are disbursed under the contribution program.

Adequacy of Resources to Support Engagement at the Nation and Community Level

As part of their mandate, both Committees are expected to engage with the potentially impacted Indigenous Nations and communities. To fulfill this goal, it is expected that the Committees will regularly engage with the Indigenous Nations to identify concerns, priorities, perspectives, and recommendations. For the IAMC-TMX, the TOR indicates that the Committee may allocate resources to support engagement within its overall work plan and budget as appropriate.

The evaluation found evidence through the key informant interviews with members of the Indigenous Caucuses and the IAMC-TMX regional engagements that the Indigenous Caucuses are challenged to conduct such outreach and engagement. Members of both IAMCs' Indigenous Caucuses indicated the need for more resources to support Indigenous Caucus members in undertaking more targeted communications and in-person engagement with potentially impacted communities. Indigenous Caucus members collectively feel responsible to engage and bring forward the views of those identified as being potentially impacted and all of those interviewed from the Indigenous Caucus indicated a lack of resources to effectively engage at this level. For example, IAMC-Line 3 has 16 Indigenous Caucus members and there are 109 Nations and communities potentially impacted by this Line. For IAMC-TMX, there are 13 Indigenous Caucus members and 129 potentially impacted Nations and communities. It was noted that the current structure does not enable more involvement without strain on individuals. A representative of the Indigenous Caucus of IAMC-TMX noted that shared decision-making models require more time and energy, making this strain even greater for members who play an active role in Sub-committees or as Co-Chairs.

Without additional funding, the IAMC-Line 3 expressed concern that they do not have sufficient resources to hire staff to support the Indigenous Caucus in conducting outreach and engagement of potentially impacted communities. Additionally, two Indigenous Caucus members of IAMC-Line 3 noted significant differences between the funding allocated to the IAMC-TMX and IAMC-Line 3. However, even with the hiring of Indigenous Caucus staff for the IAMC-TMX, Caucus members expressed challenges in conducting the required level of community-level outreach and engagement.

IAMCs' Secretariats

Documentation indicates that the resourcing for the IAMCs' Secretariat was established with initial funding approvals prior to the IAMCs' TOR co-development process. Interviews with involved senior government leaders and Federal Caucus members indicate that, through the co-development process, the vision and expectations for the IAMCs were later refined and began to evolve – often with notable differences of opinion between the Federal and Indigenous Caucus members.

The evaluation was only able to obtain an IAMC Secretariat organizational chart representing levels proposed when the Secretariat was first established and a proposed chart for 2022. This makes it difficult to assess changes over time. Nevertheless, the evaluation found evidence that as the Secretariat was structured and operating it was not adequately resourced, nor did it have capacity to fully deliver on the expanding role of the IAMCs and the expectations of the Indigenous Caucuses. As originally envisioned, up to \$20.29 million (including EBP, PWGSC and SSC) and 13 FTEs were to be allocated to NRCan's Partnerships & Engagement (P&E) Branch³⁵ to support the operations of the Secretariat, including regional or other Sub-Committee structures, and associated travel and meeting expenses, including those of Indigenous members. In 2022, the IAMCs Secretariat organization chart indicates that the IAMCs Secretariat has increased in response to demand for support to 18 staff (9 to support IAMC-TMX, 7 to support IAMC-Line 3, and 2 staff whose support is shared between the two Committees).

Lack of Stability within the Secretariat

Senior leaders involved in the establishment of the IAMCs and an overwhelming majority of Indigenous Caucus members of both Committees and Secretariat staff indicated that the Secretariat relies on temporary staffing mechanisms (e.g., development programs, casual, term and/or assignments). This tends to attract less experienced staff and contributes to low levels of retention. All of those interviewed recognize that there has been a high level of turnover of NRCan staff, including in the G&Cs unit.

"We need more consistency in Secretariat – support is good but turnover is high which doesn't allow for trust building."

- Source: Interview, Indigenous Caucus, IAMC-Line 3

Secretariat staff who were interviewed as part of the case study review described the Secretariat as being under-resourced, highly unorganized and a high stress environment primarily because the Secretariat cannot fully meet the needs of the Indigenous Caucuses. This has led to tension in relationships between Secretariat staff and Indigenous Caucus members and is seen as contributing to the high level of turnover. As noted by one representative of the IAMC-Line 3 Indigenous Caucus, lack of understanding of Indigenous histories and world views might also contribute to misinterpretations and lack of trust.

As a result of the turnover, particularly in the G&Cs unit, Secretariat staff have been pulled into fill vacancies and support the delivery of the IAMC Contribution Program. These staff indicated not having the requisite training and skills to perform effectively in these positions. A few members of the Indigenous Caucus IAMC-TMX noted that the lack of capacity, including senior level staff, is significantly impacting Committee work and the efficient and effective delivery of the G&Cs program.

Indigenous Caucus members for both IAMCs indicated an immediate need to build the capacity and knowledge of the Secretariat as well as increase the number of Indigenous staff (who can also act as cultural brokers). At the time of writing, the Secretariat employed six Indigenous staff on both IAMC Secretariats - four with the IAMC-TMX and two with the IAMC-Line 3. Those interviewed from the Indigenous Caucuses underscored the need to staff the

Secretariat on a permanent basis with more senior staff who understand machinery of government and the history and concerns of potentially impacted Nations and communities as it relates to these large energy projects. It is unclear if the current structure and staffing levels for the Secretariat will address the key concerns identified by the Indigenous Caucuses.

G&Cs staff interviewed for the evaluation emphasized that the NRCan's financial systems (specifically the lack of system integration with the SAP system which processes G&Cs payments) are insufficient to support the delivery of the IAMCs contribution program. This has made it difficult for staff to provide financial updates as requested by the Indigenous Caucus. In addition, G&Cs staff recommend simplifying and streamlining the internal claims process. These factors were identified as leading to unfulfilled expectations for Indigenous Caucus members and increased tensions between the Indigenous Caucus and Secretariat staff.

In response, some members of the IAMC-Line 3 suggested the creation of an Indigenous Secretariat dedicated to support the Indigenous Caucus.

"Our meetings need to be better organized. We need Indigenous Secretariat and staff to support the Indigenous Caucus and to help organize these meetings."

- Source: Interview, Indigenous Caucus, IAMC-Line 3

There is also a desire among the IAMC-TMX Indigenous Caucus and Caucus resource staff to have the Secretariat transferred to an organization external to government, reporting directly to the Chair of the Indigenous Caucus. Former and current Federal Caucus members who noted challenges related to the operations of the Secretariat did see this as a possibility. There is precedence for this including the BC First Nation Health Authority³⁶ and the Clean Air Strategic Alliance³⁷ in Alberta – both of which involve federal and provincial partners.

Measurements, Processes and Tools to Support the Assessment of the IAMCs' Impact

Process and tools are in place to support the IAMCs.

As originally envisioned, it was expected that the IAMC Secretariat would provide policy instruments, processes, templates, tools, training and expert advice, supported by NRCan's Centre of Expertise on Grants and Contributions (G&Cs). Through the Centre of Expertise, training and advice was to be provided to ensure transfer payment programs are managed with integrity and transparency and in compliance with the *TB Policy on Transfer Payments*.

Interviews with IAMC Secretariat staff reveal that the Secretariat's role has been primarily focused on: co-development; Line-wide and regional engagements; support to Committee and Sub-Committee operations, including implementation of work plans; implementation of the IM program, including logistics for Indigenous Monitor training; website maintenance; publication of IAMC annual reports; and administration of the Contribution Program.

Both IAMCs have invested in the development of policies, processes and tools to support the work of the IAMCs. For both Committees, this includes governance policies and guidance documents including on confidentiality, conflict of interest, and honorarium, as well as IM policy documents and protocols. There are also materials specific to each Committee, e.g., FAQs on the IAMX-TMX contribution program, interim guidance for IAMC-Line 3 on early engagement on CER project applications and factors to consider in project decisions, including impacts to Indigenous rights, and an IAMC-Line YouTube video on benefits and the importance of socio-economic monitoring.

According to NRCan data, in 2019-2020, 51 percent of the IAMCs' contribution agreements were for projects designed to increase Indigenous access to information, tools and/or other resources regarding energy infrastructure development. Further, during this same period, 49 percent of IAMC contribution agreements included the integration of energy infrastructure development opportunities into Indigenous community operations, plans or strategies.

Measuring Results

There is a general sense among the members of the Federal Caucus who were interviewed that there is a deficiency with respect to outcome-based performance information/measures – at both the Committee level and, in particular, at the Nation and community level.

IAMC-Line 3 has developed a Committee Strategic Plan, as well as Sub-committee work plans that include broad budgets. For the IAMC-TMX, every Sub-committee has an annual work plan. These plans tend to be more output, as opposed to outcomes, focused.

The TB *Policy on Results* (2016) requires federal departments to develop and maintain a Performance Information Profile (PIP) for every Departmental Program. These PIPs are expected to outline the program's expected outputs and outcomes and provide reliable indicators to measure results. A review of the PIPs for all partner departments found that a great deal of IAMC-related information is being tracked by the IAMC Secretariat as well as by CER, NRCan (P&E), DFO, CCG and TC. For example, the CER's IAMC-related PIP provided detailed information on its performance indicators. For DFO, the PIP is detailed and includes commitments beyond TMX including broader legislation that is part of the department's mandate.

In 2019-20, the IAMC-related indicators used by NRCan were revised in order to provide more specificity, clarity, and ease of data collection. While the longer-term indicators are somewhat more outcomes focused, many remain output focused. Examples of current indicators include: dollar value of contribution agreement expenditures; signed TOR; and percentage of requests for information and/or advice on technical and scientific issues from the Committees that are responded to by participating departments (CER, DFO/CCG, TC, ECCC) within the prescribed timeline.

Measuring Impact at a Nation/Community Level

The evaluation found limited indicators that measure the impacts of the IAMCs at the Indigenous Nation and community level.

One way to assess impact would be through the analysis and summary of results as found in the annual reports (if required) and the final narrative reports from Nations and communities who have received IAMC contribution funding. However, NRCan G&Cs unit staff indicated that the final narrative reports from the funded projects are not consistently submitted and, while some reports submitted do provide evidence that the IAMCs are having an impact at a Nation, community and individual level,³⁸ many lack sufficient detail to adequately assess impact. G&Cs unit staff indicate that they only read the reports from a compliance perspective and that Secretariat staff are not critically reviewing nor mining these reports to assess performance and wise practices to inform ongoing program evolution and renewal. The limited information provided in these reports do demonstrate that the funded activities have been completed and the number of communities reached.

Interviews with G&Cs unit staff indicated that they have not found NRCan systems and tools to be sufficient and nimble enough to support ongoing monitoring of IAMCs' financial information or assessment of IAMC results. For example, it takes a high level of effort to complete financial reporting. Interviews with two G&Cs unit staff indicated that there are better case management tools that are being used in other federal departments. In addition, an

interviewee with an NRCan Finance staff member who supports the IAMC concurred that the financial systems make it difficult to support an interdepartmental initiative such as the IAMCs, particularly in having timely financial information to support ongoing monitoring of IAMC operations.

This finding is reinforced by the interviews with the Indigenous Caucus members of IAMC-TMX who expressed frustration with the inability of the Secretariat to produce financial forecasting for spending on Committee activities and under the G&Cs program. This impacts the ability of the IAMC to monitor and track spending, particularly under the contribution program, and to release funding to other areas/projects when there are delays in processing some projects. Two representatives of the IAMC-TMX Indigenous Caucus postulated that the inability to monitor spending on a regular basis may have partially contributed to previous year-over-year lapsed funding under the IAMC G&Cs program.

Supporting Diversity and Inclusion

Summary of Findings

The IAMCs have achieved their founding goal of a diverse and balanced representation between male and female members as well as a perceived balance of representation from impacted First Nations and the Métis Nation. While youth and Knowledge Keepers have been engaged in a number of IAMC-funded projects, it was noted that these groups should be engaged more by the IAMCs. There may be a need to ensure that all voices are heard around the IAMC tables – particularly female contractors.

Both Committees are focused on addressing socio-economic risks and priorities associated with work camps. IAMC-Line 3 is focused on increasing Indigenous participation in the economic opportunities associated with the Line 3 replacement project and monitoring whether the project has successfully delivered on promised economic benefits. The IAMC-TMX has called for greater planning and monitoring of socio-economic effects of the pipeline.

A key priority for the federal government is supporting inclusion and diversity, not only in the federal public service but also in federally funded programs and services. It was anticipated that the IAMCs' activities would be accessible to Indigenous community members of all genders and ages, and that the co-development process would provide opportunities to respond to the views of Indigenous women. This evaluation sought to assess how the IAMCs were supporting and removing barriers to diversity and inclusion.

Achieving Balanced Representation

There is evidence that strategies and mitigation measures have been developed and implemented to address gender or diversity impacts. The documentation review and interviews with some members of both IAMCs revealed that the goal was a diverse and balanced representation between genders in the composition of the IAMCs. Representation of women for the initial appointments to Indigenous Caucus of the IAMC-TMX was over 50 percent. During the period of evaluation conduct, the Co-Chairs for both Committees were women. This goal has been achieved and sustained over time for both Committees. This is positive given that the members are either elected or put forward by the Nations and communities they belong to.

Committee activities are viewed by the Indigenous Caucus members of both Committees as being accessible to people of all genders and ages. The co-development process, through the Line-wide engagements and regional workshops, provided opportunities to respond to a variety of viewpoints, including those of Indigenous women.

The design and implementation of several funded projects were noted to be youth-focused, particularly environmental monitoring and skills training (e.g., divers training). Elders were engaged for guidance and knowledge sharing on most projects reviewed and as part of both IAMCs' IM programs.

However, a few Indigenous Caucus members of IAMC-Line 3 did note that the Committees could benefit from the addition of more youth involvement, specifically post-secondary students, as well as Elders and Knowledge Keepers. The need to increase inclusion of Elders and Knowledge Keepers in the work of the IAMCs was also recommended by a few participants during the IAMC-TMX regional engagements.

The evaluation did not complete a detailed analysis of Records of Discussion to identify the extent to which various groups have been influential in informing discussions. However, from the perspective of one IAMC-Line 3 project representative interviewed as part of the case studies, those with academic credentials (particularly men) are often deferred to by IAMC members. They perceived that this gave authority to the men with these credentials and formed a negative context when going into meetings. At the same time, two women contractors who were interviewed as part of the case study review felt that they had less of a voice within the IAMC despite bringing what they perceived to be the more challenging issues to the table. One Indigenous Caucus member of IAMC-TMX who was interviewed noted that at times, there are strong men's voices around the table that make it difficult for other voices to be heard.

In addition, there is overall a perceived balance of representation from impacted First Nations and Métis, however, with some concern noted that the BC Métis member position for the IAMC-TMX remains vacant. During the evaluation's planning and scoping phase, discussions revealed that it was important for the IAMCs (and thus the evaluation) to recognize the differing needs, challenges, and priorities across the potentially impacted Indigenous Nations and communities. The IAMC-TMX regional engagements found that some potentially impacted Indigenous communities do not feel fully engaged primarily given they live outside large, urban areas. For example, one participant from the Kamloops engagement session indicated that those north of Hope, BC have no hope of being engaged by the IAMC-TMX ("*there is no hope [of engagement] north of Hope*"). It was recommended that IAMC-TMX do more to engage all impacted Nations and communities – particularly those in more remote areas.

Shared Benefits

As noted by members of both IAMC-Line 3 and TMX Indigenous Caucuses, the potential for economic development was a significant factor in attracting representatives of the potentially impacted Nations and communities to be involved in the IAMC co-development process.

"Front loaded expectations on economic benefits to impacted Nations was a focus during development as well as during the first couple years of the committee. This was a major project that had a \$7 billion dollar plus cost economic boost. It was prudent for Indigenous Nations to use whatever avenues were available to pull benefits in their direction."

- Source: Interview, Indigenous Caucus, IAMC-Line 3

A review of the data published by the proponent indicates that impacted Nations and communities have benefited from these large energy projects. For example, proponent data indicates that as of December 2021, more than 2,000 Indigenous workers have worked on the TMX Project, with over \$2.74 billion spent on 3,942 Indigenous contracts. Additional benefits are also being realized through Indigenous-owned or joint-venture businesses

participating in the construction of the expansion, in addition to marine safety and spill response enhancements for the West Coast.³⁹ Similarly, proponent data for L3RP indicates that during construction more than 1,100 Indigenous people were employed on the project—comprising 20 percent of the overall workforce. In addition, it notes that the Line 3 replacement has generated more than \$400 million in Indigenous economic benefits, including \$116 million in wages paid to Indigenous workers.⁴⁰

There was some concern noted by a few members of the Indigenous Caucus of IAMC-TMX regarding the lack of implementation of the Economic Pathways Partnership (EPP) that was supposed to operate in conjunction with the IAMCs. The EPP was intended to support Indigenous access to economic opportunities associated with the Line 3 and TMX projects by facilitating access to existing supports, such as training, business development, and capacity building. Expected to be delivered by NRCan and funded via the reallocation of participating departments' existing internal operating authorities (an expected total of \$1.1M from NRCan, Economic and Social Development Canada and Western Economic Diversification Canada, and the former Indigenous and Northern Affairs Canada), the EPP was a commitment to develop and deliver a whole-of-government approach to facilitate better access to existing federal economic development programs associated with these energy projects.

Due to staff shortages, there was only 0.5 FTE assigned to this file. In 2019-20, NRCan determined that there was not a sustainable long-term strategy to advance the EPP pilot given significant staff and resource constraints and this initiative was permanently put on hold. This allowed staff to redirect attention to the IAMCs and a new Indigenous Natural Resource Partnerships (INRP) Program⁴¹ that was established by NRCan in 2019 with an overall G&Cs budget of \$18M between 2017-18 and 2021-22. According to NRCan program representatives, the INRP Program provides a new path to funding and support for the communities the EPP pilot was to serve and feedback from Indigenous communities and groups engaged with the EPP pilot was incorporated into its design. In February 2022, the Minister of Finance announced next steps in light of the revised cost estimate and completion timeline for the TMX project, including a commitment to return with future announcements on furthering the economic participation of affected Indigenous communities.⁴² Supported with funding from Budget 2022, NRCan has more recently committed to work with federal partners to develop a new National Benefits-Sharing Framework for major resource projects located on Indigenous territory.

However, as recently as June 2022, the Indigenous Co-Chair, IAMC-Line 3 raised concerns to the Minister of Natural Resources that there continues to be an “unequal opportunity and noted gaps to support capacity for Indigenous Nations to access funding”. There was no mention of the INRP but rather reference was made to the National Benefit-Sharing Framework as a good avenue to ensure that Indigenous Nations are benefiting from these large projects. It was further recommended that Indigenous Nations be involved in the development of this framework.⁴³

Conclusions and Recommendations

Relevance

The evaluation found that the IAMCs remain relevant, although there is room for adjustment and improvement in their design. The IAMCs are seen by those interviewed (including Federal Caucuses, Indigenous Caucuses, and regional engagement participants) as an important step towards the achievement of the Government of Canada's commitment to Reconciliation.

There is an ongoing need for the IAMCs given the federal government's commitment to implement the IAMCs over the lifecycle of both the TMX and Line 3 energy projects, and the fact that progress against the IAMCs' initial objectives has been slowed by the extensive co-development processes and COVID-19. In light of the commitment to the life of the projects, there is agreement among Caucus members that the IAMCs will need to continue to evolve to respond to the stage of each project, the need for oversight and the needs of potentially impacted Nations and communities as they relate to these energy lines. However, there are differing visions on how the IAMCs need to evolve.

There is a desire among Indigenous Caucus members for greater delegation of decision-making to the IAMCs and a new power dynamic that reflects joint decision-making and shared accountabilities.

Recommendation 1

It is recommended that each IAMC, led by the co-chairs, undertake strategic discussions to seek agreement on the vision for the IAMCs going forward, including areas for shared decision making and future co-development. This vision should drive discussions on the most appropriate model for each IAMC, including the expected participation and senior level commitment from each participating federal department, and changes should be reflected in the TOR as required.

Effectiveness: Achievement of Expected Short-term Results

The IAMCs have been effective at advocating for and advancing Indigenous concerns to the forefront of regulatory oversight of these large energy projects. Underscoring the establishment of the IAMCs was the commitment to co-development and senior level engagement throughout the establishment of the IAMCs. These were critical foundations to developing understanding of each others' world views and building trust-based relationships.

The IAMCs are seen by Indigenous Caucus members and those reached through the IAMC-TMX regional engagements as a positive step forward for the Crown in living up to its commitments. The IAMC are seen by Indigenous and Federal Caucus members, as well as those who participated in the regional engagement, as an improvement and a more effective mechanism to support Indigenous engagement and the provision of advice and recommendations to federal regulatory bodies and decision-makers. There is a desire, however, among indigenous Caucus members to further evolve the IAMCs, while some Federal Caucus members see the IAMC continuing to be implemented as outlined in the co-developed TOR until a new vision is jointly developed and endorsed.

The Indigenous Caucuses for both IAMCs have provided extensive advice and recommendations to government. Interviews with Indigenous Caucus members indicate that government has been slow to formally respond to the advice and recommendations put forward by the Indigenous Caucuses. In addition, the IAMCs' TORs are unclear as to who has authority to make recommendations to government. At this time, Indigenous Caucus and Federal Caucus members are not in agreement with what *consensus* from the IAMC means. As currently structured, the Indigenous Caucuses of both Committees make up the majority of the IAMC membership. It remains unclear whether recommendations from the IAMCs that require government response must be a consensus of all IAMC members, or whether it is sufficient to have consensus of the Indigenous Caucus. Some Federal Caucus members indicate that this lack of clarity may contribute to the delays in formal responses from federal departments. Together, these issues negatively impact the trust Indigenous Caucus members have in the federal government and its commitment to the IAMC process.

The IAMCs have improved resourcing of Indigenous Nations and communities to develop the capacity for and to be involved in the monitoring of these energy projects through the creation of distinct Indigenous Monitoring programs. These IM programs have helped to strengthen Indigenous oversight regarding environmental, cultural, and socio-economic impacts of these energy projects, in addition to the consultations undertaken as part of regulatory requirements. While the IM programs are seen as a significant and positive outcome from the IAMCs, challenges exist in relation to the initial and continuous training and retention of IMs – particularly given the episodic nature of the Indigenous Monitor positions. There is a desire among Indigenous Caucus members and Indigenous Monitors for further investment in the continued training and the creation of more sustainable IM programs and positions.

Recommendation 2:

It is recommended that CER, in conjunction with the IAMCs, continue to evolve and develop more sustainable Indigenous Monitoring programs for the IAMCs, ensuring consistency in pay, continued investment in skills development, and managing the expectations of IMs as to the sustainability of these positions.

Recommendation 3:

It is recommended that the IAMCs and federal government develop a shared definition for “consensus” in relation to advice and recommendations to government and the conditions for the government’s responses, as well as a formal process to support the intake and tracking of IAMC advice and recommendations to government (e.g., acknowledging receipt of advice/recommendations; clarifying areas where the IAMCs can provide advice/recommendations; a commitment to the timelines for government to respond to IAMC’s advice/recommendations once it has been received; and finally tracking of response back to the IAMCs).

Effectiveness: Achievement of Intermediate Outcomes

The IAMCs have led to a more partnership-based approach among federal and Indigenous Committee members, including the co-development process for the TOR and the development and implementation of the IM program. However, more communication and outreach at the broader Nation or community level is required. Indigenous Caucus members indicated they do not have the resources nor adequate time to effectively conduct outreach to all the potentially impacted Nations and communities, and that they are particularly challenged to reach those who oppose these energy projects and/or are disengaged from the IAMC process. It was noted that these voices and perspectives need to be heard by IAMC members and reflected in discussions with the regulators, though in some cases they may already be heard by federal departments and agencies as they engage directly with the rights holders. This underscores the complexity of the federal government’s approach to engaging with Indigenous Nations and communities.

Indigenous Caucus members of the IAMC-TMX see a declining level of senior engagement in the Committee. In addition, the lack of long-term funding is viewed by Indigenous Committee members from both IAMCs as restricting more strategic investments and undermining trust that Indigenous leaders have regarding the federal government’s commitment to the IAMCs for the life of these projects.

There is evidence that the IAMCs are driving broader systemic change including organizational change within the CER and expansion of the IM programs to other energy projects. While members of the Indigenous Caucus of the IAMC-TMX expressed disappointment that IAMCs have not been established for other energy projects recently approved by the federal government, the evaluation did find that IAMC insights have been reflected in broader federal government reviews such as the National Inquiry into Missing and Murdered Indigenous Women and Girls.

Recommendation 4:

In the spirit of a commitment to the life of the project, it is recommended that each IAMC develop a long-term strategic plan which identifies its vision, ultimate outcomes, and strategic priorities focused on the longer-term nature of these projects. These long-term strategic plans should each be supported by a five-year investment plan and annual work plans that identify priorities, commitments and expected outcomes based on approved funding levels, as well as the allocation of resources to deliver on the annual plans.

Recommendation 5:

It is recommended that NRCan initiate discussions regarding longer term funding arrangements such as the establishment of the IAMCs as an ongoing initiative with permanent funding or longer-term (e.g., 10-year) contribution funding. Alternative funding arrangements would be required should a decision be made to move the IAMC Secretariat to an external, Indigenous-led body.

Effectiveness: Progress Towards the Achievement of Long-Term Outcomes

The IAMCs are seen as a significant improvement in how Indigenous peoples are engaged – specifically the recognition of the right of potentially impacted Indigenous Nations to be involved in the regulatory review and oversight processes for large energy projects through the IAMC members. The IAMCs allow for a number of issues which are not rights-based to be resolved.

The evaluation found that, as a result of the IAMCs, participating Indigenous leaders have increased comfort and confidence in the regulatory process. The IM program is viewed as an essential component of the IAMCs as it has built capacity of potentially impacted communities to have their people on the ground monitoring the project and reporting back to community leaders and IAMC representatives.

Indigenous Caucus members indicated that progress made on advancing both energy projects would likely have not been as great without the IAMCs.

Efficiency

The IAMCs are generally viewed as having the right composition and structure. For the IAMC-Line 3, it was suggested that the turnover in membership should be further staggered to improve Committee continuity.

There is evidence that several processes and tools have been developed to support the IAMCs. However, there is a desire among Indigenous Caucus members – particularly from the IAMC-TMX – for stronger governance processes and practices and knowledge management of IAMC documents. There is agreement among some federal representatives from NRCan, members of the Federal Caucus and the majority of Indigenous Caucus members of both Committees that governance processes should be strengthened, including IAMC meeting structure, discipline, and planning that adequately reflects annual resource levels. Indigenous Caucus members of both Committees desire greater delegation of authorities and decision-making.

The evaluation found that the IAMC Secretariat is not operating optimally. At this time, the IAMCs do not have permanent funding and NRCan perceives itself to thus be restricted in its ability to hire permanent staff. Consequently, the Secretariat is staffed using temporary staffing measures and increasingly with junior, less experienced staff. These factors, combined with a lack of forward planning that allocates resources to priorities, has contributed to an inability to fully support the expectations of the IAMCs' Indigenous Caucuses. This has led to rising tensions and increasing pressure on Secretariat staff – possibly contributing to the high level of turnover among Secretariat and G&Cs unit staff and, ultimately, diminishing levels of trust. Given these challenges, the

IAMC-TMX Indigenous Caucus would like the Secretariat positioned structurally outside of government, reporting directly to the Indigenous Caucus. Indigenous Caucus members of IAMC-Line 3 did not express an interest in having the Secretariat positioned outside of NRCan but are supportive of a separate Indigenous Secretariat to support their work.

Indigenous Caucus members of the IAMC-TMX and a few members of the IAMC-Line 3 Indigenous Caucus believe that the administration of the IAMC contribution program continues to be paternalistic and controlled by government, and not reflective of commitments to Reconciliation and self-determination. Secretariat and G&Cs unit staff also find that the financial systems used by NRCan are not sufficient to support a complex interdepartmental initiative like the IAMCs.

Engagement with Indigenous Caucus members of both Committees indicated they do not have the resources, support nor adequate time to effectively conduct outreach to all the potentially impacted Nations and communities. This was also confirmed through regional engagements and the review of the reach of the IAMC contribution program.

Departments are using a number of performance measurements and indicators to track progress under the IAMCs; however, this information is too focused on outputs (rather than outcomes) and is not shared at the IAMC tables. Indigenous Caucus members questioned whether the IAMC logic model includes the right outcomes and performance measures – specifically, the current logic model was seen as not accurately reflecting the outcomes expected by potentially impacted Nations and communities. This presented challenges in the conduct of this evaluation.

Recommendation 6:

It is recommended that NRCan, in collaboration with the IAMCs, conduct a governance review to identify and prioritize IAMC governance policies, procedures and practices that require strengthening and develop a plan to address any gaps. Further, it should ensure that all information related to the IAMCs' operations are located on an accessible and shared drive and Committees are provided with regular financial updates. The latter would require all participating departments to consistently track and report at least annually on their IAMC spending, progress and barriers to results achievement.

Recommendation 7:

The IAMCs' purpose, work, and funding opportunities need to be more effectively communicated to potentially impacted Nations and communities. Therefore, as part of the planning process, NRCan should ensure the Indigenous Caucuses are effectively resourced to undertake in-person and virtual engagement with members of the potentially impacted Nations and communities.

Recommendation 8:

NRCan should undertake discussions with IAMC members to determine where the IAMC Secretariat should be placed to ensure effective operations and results achievement. Should the decision be made to continue with the Secretariat housed within government, it is recommended that NRCan, in discussion with IAMC members, develop a staffing plan for the Secretariat (including the G&Cs unit) with the required positions, levels, competencies and skills to support each IAMC. In staffing the Secretariat, preference should be given to Indigenous employees. Given the long-term nature of these Committees, NRCan should seek approval to staff the Secretariat using permanent staffing measures.

Recommendation 9:

It is recommended that NRCan, working with representatives of each IAMC, review from an Indigenous lens (e.g., Indigenous world views), co-develop and reframe the IAMC logic model as required. This review should seek agreement on the expected outputs and outcomes, the evaluation framework, key performance indicators and timing for data collection to inform ongoing monitoring and evaluation.

Supporting Diversity and Inclusion

The evaluation found that the IAMCs have achieved their founding goal of establishing a committee with a diverse and balanced representation between genders, as well as representation from both First Nations and the Métis Nation. Some noted that the Committees should have more involvement from youth, Elders, and Knowledge Keepers.

Both Committees are focused on addressing socio-economic risks and priorities associated with the two energy projects. IAMC-Line 3 is focused on increasing Indigenous participation in the economic opportunities associated with the energy project and monitoring whether the project has successfully delivered on promised economic benefits. The IAMC-TMX has called for greater planning and monitoring of socio-economic effects of the pipeline.

The potential for the sharing of economic benefits and economic reconciliation played a significant factor in attracting representatives of the potentially impacted Nations and communities to be involved in the IAMC co-development process. While data published by the proponents for each project indicates that impacted Nations and communities have benefited from these large energy projects, the Indigenous Co-Chairs of both Committees have raised concerns, including to the Minister of Natural Resources, that there continues to be an unequal opportunity and access to key programs and opportunities to share benefits. Supported with funding from Budget 2022 (\$103.4 million over five years, starting in 2022-23), NRCan has more recently committed to work with federal partners to develop a new National Benefits-Sharing Framework for major resource projects located on Indigenous territory.⁴⁴

Recommendation 10:

It is recommended that NRCan monitor and report on the economic benefits that are realized by potentially impacted Indigenous Nations and communities from these large energy projects.

Lessons Learned

There are a number of factors that supported or deterred the achievement of the IAMCs' results. It is clear that the establishment of joint Indigenous-government advisory and monitoring bodies takes time to support co-development and build positive, trust-based relationships. This reality needs to be reflected in the timelines when establishing similar committees in the future.

As new, horizontal advisory bodies, there is a sense that more training is needed for Caucus members. Training would be beneficial for federal representatives in line with the Call to Action #57 of the Truth and Reconciliation Commission and in understanding the impacts of inter-generational trauma.⁴⁵ Indigenous Caucus members would benefit from introductory training on the machinery of government, the budget process and legislative accountability requirements. In addition, at the early stages of establishment, Committee meetings and members may benefit from a facilitator who could help members move through the challenging stages of group dynamics towards trust-based relationships where committees are working to their full potential.

Additional consideration should be given to the role of the Secretariat in supporting such committees, and ensuring it is adequately staffed and resourced to carry out its mandate.

Appendix A: Detailed Overview of the Methodology

The key methodologies and approaches used in this evaluation are highlighted below.

Document and File Review

The documentation review includes a review of all relevant documents as they relate to the initial conception, planning and implementation of the IAMCs. This included: funding approvals, planning documents, Performance Information Profiles for each federal department or agency as they relate to the IAMCs, Terms of Reference for each Committee, files related to projects funded under the IAMC Contribution Program, IAMC communications, newsletters, plans and reports from IAMC line-wide and regional engagements, letters to Ministers, press releases and briefing notes, governance related documents, IAMCs' advice and recommendations to government, training documents, monitoring reports, the IAMC website, etc.

The documentation review examined issues primarily related to rationale and relevance, with some evidence regarding performance.

Key Informant Interviews

Individual interviews with key informants (KI) were conducted to gain insight into the implementation of the IAMCs. This line of evidence supported the assessment of relevance and performance, including efficiencies. The key informant interviews provided evidence as to the original intent and design, evolution through the co-development process, current activities and practices, changes in context, achievement and progress, alternative delivery approaches, areas for improvement, and future direction and need.

Close to 50 people were interviewed (some multiple times) to clarify questions and acquire further information and documentation. Those consulted include:

- 9 representatives of NRCan including P&E, IAMC Secretariat and G&Cs unit staff;
- 4 representatives of CER (excluding CER inspection officers consulted as part of case studies);
- 6 interviews with representatives from DFO (2), TC (2), CCG (1) and ECCC (1);
- 4 past and present co-chairs and federal leaders involved with establishing both IAMCs;
- 19 representatives of Indigenous Caucus members for both IAMCs (10 Line 3 and 9 TMX);
- 4 interviews with members of the IAMC-TMX Indigenous Caucus resource team; and
- One subject matter expert.

Data was collected using interview guides tailored to each partner and stakeholder group. Evidence collected was integrated into an Interview Evidence Matrix.

Case Study Reviews

This line of evidence supports the assessment of the relevance, performance, and impact of the IAMCs' contribution program. Specifically, the case studies were expected to provide a more in-depth understanding of the extent to which the contribution program has supported the achievement of expected outputs and outcomes (e.g., capacity building, active and meaningful Indigenous engagement over the full lifecycle of the major resource projects via building capacity and addressing Indigenous issues and priorities). In addition, three horizontal case studies were undertaken to examine key horizontal areas of the IAMCs.

A purposeful selection of project cases (versus a random selection) was conducted to ensure representation of funded projects according to the following main criteria: number of projects funded by IAMC and by region; applicant type; funding range; and type of project funded.

A total of nine project-level case studies (five for IAMC-TMX and four for IAMC-Line 3) were examined as part of the case study review. An additional two case studies for IAMC-TMX and one case study for IAMC-Line 3 were initiated, however they were not completed as the evaluators were unable to reach the project authorities/managers to provide more in-depth insight into the projects. Please see Appendix C for a listing of project level case studies.

The evaluators conducted a document and file review (background documents) for each of the selected case studies and conducted targeted interviews guided by a case study framework.

In addition, the evaluation included the following horizontal case studies:

- **The Co-Development of the IAMCs' Terms of Reference (TOR):** An in-depth review of the co-development process that was used to develop the TORs for each IAMC.
- **IAMCs Secretariat Support:** Examination of how the Secretariat was established, its structure, effectiveness in supporting both federal government and Indigenous Caucus members and overall, how efficiently the Secretariat is operating.
- **Establishment of the IAMCs' Indigenous Monitoring Program:** Examination of the development and implementation of the IAMCs' Indigenous Monitoring Program and how it contributed to advice to the CER and the introduction and integration of Indigenous monitoring into CER's policies, processes, and delivery of monitoring activities. This case study included a focus group with CER Inspection Officers (n=7) and interviews with a limited number of Indigenous Monitors (n=10).

Survey of Representatives from Potentially Impacted Indigenous Communities

The Methodology Report for this evaluation originally identified an online survey that would be conducted to gain perspectives from members of potentially impacted Indigenous Nations and communities that have been involved in IAMC activities or have interacted with the different IAMC bodies, e.g., through Line-Wide Gatherings. Through discussion with the Horizontal Working Group and more specifically the IAMC-TMX Indigenous Caucus, it was determined that in-person regional sessions would be the preferred method for gathering community and Nation level insights as to their experiences with applying for funding and the implementation of funded projects. This caused some delays in the conduct of the evaluation including obtaining approval for the change in scope and planning and carrying out the regional engagements.

IAMC-TMX Regional Engagements

Representatives of the evaluation team met with a small group of representatives of the IAMC-TMX Indigenous Caucus in February 2022. This session was an important first step in understanding their experiences of establishing the IAMC and in planning the regional engagement sessions that took place in the following locations:

Region	Date	Estimated Participation
Fraser Valley & Burrard Inlet/Lower Fraser (Abbotsford)	March 17, 2022	43 participants: 13 in-person, 30 online
Coastal BC Region (Victoria)	April 26, 2022	25 participants: 16 in-person, 9 online
BC Interior Region (Kamloops)	April 28, 2022	23 participants: 17 in-person, 6 online
Alberta Region (Edmonton)	May 5, 2022	34 participants: 28 in-person, 6 online

Through these regional engagement sessions, the evaluation team gathered information on the activities, results, and impacts of the IAMC-TMX, as well as the efficiency of the IAMC-TMX in addressing the issues of Nations and communities related to the TMX project. The sessions were also intended to provide guidance to IAMC members in bringing forward the priorities and concerns of impacted Nations and communities.

The IAMC-Line 3, were concerned about the burden of further regional engagement sessions having recently conducted their own regional engagement sessions in late 2021. Instead, it was recommended that the evaluation team use the reports from these IAMC-Line 3 engagement sessions to inform the evaluation. While the information and stories contained in these reports were helpful, they did not align perfectly with the evaluation framework. As such, the information collected from the IAMC-Line 3 was not as rich in detail as what was collected for IAMC-TMX.

Appendix B: Key Evaluation Questions

Relevance and Continued Need:

Alignment with Departmental and Government Priorities

- In what ways and to what extent are the IAMCs still aligned with NRCan, governmental and Indigenous communities' priorities?
- Is there a legitimate and appropriate role for the implementation of IAMCs in regard to the identified areas?

Continued Need

- To what extent is there a continued need for the implementation of IAMCs?

Effectiveness:

Achievement of Expected Short-term Results

- To what extent are Indigenous groups better resourced to be involved in monitoring of the major projects?
- To what extent have the IAMCs' approach facilitated Indigenous engagement and the provision of advice and recommendations to decision-makers?
- In what ways and to what extent are Indigenous groups able to engage meaningfully with the regulator(s)?
- To what extent is the provision of advice and recommendations to decision-makers a result of a collaborative and informed body as part of the implementation of the IAMCs?

Achievement of Intermediate Outcomes

- Have Indigenous concerns and needs been addressed over the lifecycle of the project?
- To what extent are partnerships formed with Indigenous communities based on mutual respect, information sharing, and achievement of common objectives?
- To what extent is meaningful Indigenous participation in the full lifecycle of energy infrastructure development (including environmental oversight, provision of advice, and monitoring) achieved?

Achievement of Ultimate Outcomes

- To what extent is a renewed relationship with Indigenous peoples based on recognition, rights, respect, cooperation, and partnership?
- To what extent is Indigenous and public confidence in developing and bringing resources to market increased?

Efficiency and Economy:

- To what extent have resources been used as planned to produce intended activities and outputs for the implementation of IAMCs?
- To what extent do the governance structure and the delivery model of the implementation of IAMCs contribute to achieving the intended outcomes?
- To what extent have expected processes and tools been implemented to support the IAMCs' effectiveness, efficiency, and economy?
- What evidence is there of mitigation measures identified and implemented to address gender or diversity impacts (GBA+)?
- What internal and external factors have influenced (positively or negatively) the achievement of the expected outcomes?

Appendix C: List of Case Studies

Case Study

TMX

Project Name	Location	Project Type
Multi Nation Environmental Monitoring Collaboration	British Columbia	Community
Capacity building Emergency Preparation	Alberta	Community
Oil Spill Response Training	British Columbia	Community
Pipe Inspection Training and Certification	British Columbia	Community
Community Engagement to Address Environmental Concerns and to Develop Advice and Strategies for Mitigation	British Columbia	Community

Line 3

Project Name	Location	Project Type
FILE HILLS QU'APPELLE TRIBAL COUNCIL (3 related projects assessed together GC-129241S; GC-128995S; GC-128964S)	Saskatchewan	Community
Economic Development	Alberta	Committee
Emergency Preparedness Research	Alberta	Committee
Environmental Monitoring and Health, Safety, and Environment (HSE) Training	Saskatchewan	Committee

Horizontal Case Studies

Project Name	Location	Project Type
TOR Co-Development Process	-	-
Indigenous Monitoring Programs	-	-
IAMC Secretariat	-	-

Appendix D: Detailed Management Response and Action Plan

Recommendation	Management Response and Action Plan	Positions Responsible	Milestones
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Recommendation	Management Response and Action Plan	Positions Responsible	Milestones
<p>Recommendation 1: It is recommended that each IAMC, led by the co-chairs, undertake strategic discussions to seek agreement on the vision for the IAMCs going forward, including areas for shared decision making and future co-development. This vision should drive discussions on the most appropriate model for each IAMC, including the expected participation and senior level commitment from each participating federal department, and changes should be reflected in the TOR as required.</p>	<p>Management agrees. The development of the future vision of Line 3 and TMX IAMCs is underway. Discussions will continue, including regular engagement and outreach events with leadership from impacted nations. The action plan in response to Recommendation 1 is as outlined below.</p> <p>Target Completion: November 2024 (target date to validate the vision with Communities at Line Wide Gatherings)</p>		
	<p>1. Engagement with impacted nations will continue, and will inform the future of the program.</p>	<p>Leads:</p> <ul style="list-style-type: none"> IAMC-TMX Indigenous Co-Chair IAMC-L3 Indigenous Co-Chair 	<ul style="list-style-type: none"> Summer 2023: Regional engagements concluded. November 2023: Line Wide Gathering – further engagement with communities.
	<p>2. Going forward, conversations will include factors such as how the secretariat role is administered, the proportion of funding for community project work, and the makeup of Indigenous Caucus, and Monitoring support workforce (such as employers, program officers, IT, Admin support, etc.).</p>	<p>Leads:</p> <ul style="list-style-type: none"> Director General, Partnerships and Engagement, Nòkwewashk, NRCan <p>Support:</p> <ul style="list-style-type: none"> CER TMX-IAMC Representative CER L3-IAMC Representative 	<ul style="list-style-type: none"> April 2024: Government funding decision to inform discussions about forward planning. IAMC Committees will develop workplans and budgets to allocate funding. December 2023: Begin basic ToR updates (i.e., changing NEB to CER, etc.), to be completed by March 2024.
	<p>3. The Terms of Reference for both IAMCs will undergo a strategic review, with updates as required, including defined clarity around participation and commitment from the CER and other federal departments. Other amendments will include lessons learned, updates to the delivery model, including (but not limited to), funding, governance, and areas of work.</p>	<p>Leads:</p> <ul style="list-style-type: none"> Director General, Partnerships and Engagement, Nòkwewashk, NRCan <p>Support:</p> <ul style="list-style-type: none"> IAMC-TMX Federal Representatives from TC, ECCC, DFO, CCG CER TMX-IAMC Representative CER L3-IAMC Representative 	<ul style="list-style-type: none"> April 2024: Begin substantive ToR updates, to be completed by July 2024.

Recommendation	Management Response and Action Plan	Positions Responsible	Milestones
<p>Recommendation 2: It is recommended that CER, in conjunction with the IAMCs, continue to evolve and develop more sustainable Indigenous Monitoring programs for the IAMCs, ensuring consistency in pay, continued investment in skills development, and managing the expectations of IMs as to the sustainability of these positions.</p>	<p>Management agrees with the recommendation to evolve and co-develop the IM profession. It is essential that the development of Indigenous Monitoring as a profession remain within the purview of Indigenous Subject Matter Experts. The CER aims to collaborate effectively by cultivating and sustaining relationships and providing long-term opportunities for Indigenous Monitors. Furthermore, the CER supports the IAMCs in establishing parallel relationships with other government departments to expand the scope of Indigenous Monitoring. The action plan in response to Recommendation 2 is as outlined below.</p> <p>Target Completion: March 2025</p>		
	<p>1. Development of a strategic plan to create a credential for Indigenous Monitoring and its implementation.</p>	<p>Leads:</p> <ul style="list-style-type: none"> IAMC-TMX Indigenous Co-Chair IAMC-L3 Indigenous Co-Chair <p>Support:</p> <ul style="list-style-type: none"> Director General, Partnerships and Engagement, Nòkwewashk, NRCan 	<ul style="list-style-type: none"> September 2024: Draft Strategic Plan Available November 2024: Strategic Plan finalized
	<p>2. Sharing of lessons learned from terrestrial to marine monitoring and participation of Indigenous Monitors in providing expert advice towards the advancement of regulatory regimes.</p>	<ul style="list-style-type: none"> IAMC Subcommittee Chairs Vice President of Field Operations, CER <p>Additional Supports:</p> <ul style="list-style-type: none"> IAMC-TMX Federal Representatives make connections with departmental inspection programs: TC, ECCC, DFO, CCG 	<ul style="list-style-type: none"> April 2024: Annual Indigenous Monitor Forum September 2024: Reporting from Indigenous Monitor Forum

Recommendation	Management Response and Action Plan	Positions Responsible	Milestones
	<p>3. Development of CER's National Strategy for Indigenous Monitoring. Since the inception of the IAMCs, the CER has been building internal capacity to support the evolution of these programs. Following the 2021 commitment to develop a National Strategy for Indigenous Monitoring within CER's scope, progress has been made in terms of resource allocation and research, leading to the initial development of the engagement framework. This framework will focus on the structures and goals for the CER in their relationship with IMs, but not on the IM profession. The framework development encompasses data collection and reporting mechanisms to ensure IAMC is involved and informed throughout. Similarly, the CER has recruited and trained two former IMs with the goal of achieving Inspection Officer designation, potentially contributing to the development of sustainable career paths for IMs. CER will maintain adequate staff and support for IM Programs throughout the development of the framework.</p>	<p>Leads:</p> <ul style="list-style-type: none"> • CER TMX-IAMC Representative • CER L3-IAMC Representative • CER Vice Presidents of Field and Systems Operations <p>Support:</p> <ul style="list-style-type: none"> • IAMC-TMX Indigenous Co-Chair • IAMC-L3 Indigenous Co-Chair • Director General, Partnerships and Engagement, Nòkwewashk, NRCan • IAMC Subcommittee Chairs <p>Additional Supports:</p> <ul style="list-style-type: none"> • IAMC-TMX Federal Representatives make connections with departmental inspection programs: TC, ECCC, DFO, CCG 	<ul style="list-style-type: none"> • March 2024: CER/IAMC National Strategy Relationship Building • June 2024: Initiation of workshop(s) on National Strategy • September 2024: "What We Heard" Reporting • December 2024: Further refinement / information gathering. • March 2025: Initial National Strategy available for IAMC review

Recommendation	Management Response and Action Plan	Positions Responsible	Milestones
<p>Recommendation 3: It is recommended that the IAMCs and federal government develop a shared definition for “consensus” in relation to advice and recommendations to government and the conditions for the government’s responses, as well as a formal process to support the intake and tracking of IAMC advice and recommendations to government (e.g., acknowledging receipt of advice/recommendations; clarifying areas where the IAMCs can provide advice/recommendations; a commitment to the timelines for the government to respond to IAMCs’ advice/recommendations once received; and finally tracking of response back to the IAMCs).</p>	<p>Management agrees. As part of strategic plan development (recommendation #4), both L3 and TMX IAMCs will articulate the long-term strategy, which will help guide the advice. This will include actions in response to Recommendation 3 as outlined below.</p> <p>Target Completion: November 2024 (target date to validate with Communities at Line Wide Gatherings)</p>		
	<p>1. Implementation of an appropriate, accessible communication loop and resources to ensure advice can be received and responded to for both IAMCs. The receiver of advice should adhere to a timeline for sharing responses. Advice should be collected into a ‘parking lot’ and a strategy developed to organize discussions on ‘parking lot’ items to resolve issues.</p>	<p>Leads:</p> <ul style="list-style-type: none"> • IAMC-TMX Indigenous Co-Chair • Federal Co-Chair, Director, IAMC-TMX, Nòkwewashk, NRCan • IAMC-L3 Indigenous Co-Chair • Federal L3 Co-Chair, Director, IAMC-L3, Nòkwewashk, NRCan <p>Support:</p> <ul style="list-style-type: none"> • CER TMX-IAMC Representative • CER Line 3-IAMC Representative 	<ul style="list-style-type: none"> • April 2024: Begin work to strategize mechanics of ‘communication loop’ and establish ‘parking lot’ document on Google Drive.
	<p>2. During on-going work planning, both IAMCs will redevelop a performance measurement framework, including meaningful key performance indicators (KPIs) and service standards regarding responses.</p>	<p>Leads:</p> <ul style="list-style-type: none"> • IAMC-TMX Indigenous Co-Chair • Federal Co-Chair, Director, IAMC-TMX, Nòkwewashk, NRCan • IAMC-L3 Indigenous Co-Chair • Federal L3 Co-Chair, Director, IAMC-L3, Nòkwewashk, NRCan 	<ul style="list-style-type: none"> • July 2024: Initiate committee conversation on development of KPIs

Recommendation	Management Response and Action Plan	Positions Responsible	Milestones
	3. A common understanding and principles of consensus will be included in the revised Terms of Reference (link to recommendation #1).	Leads: <ul style="list-style-type: none">IAMC-TMX Indigenous Co-ChairFederal Co-Chair, Director, IAMC-TMX, Nòkwewashk, NRCanIAMC-L3 Indigenous Co-ChairFederal L3 Co-Chair, Director, IAMC-L3, Nòkwewashk, NRCan Support: <ul style="list-style-type: none">CER TMX-IAMC RepresentativeCER Line 3-IAMC Representative	<ul style="list-style-type: none">April 2024: Discuss principles of consensus as part of substantive ToR updates.

Recommendation	Management Response and Action Plan	Positions Responsible	Milestones
<p>Recommendation 4: In the spirit of a commitment to the life of the project, it is recommended that each IAMC develop a long-term strategic plan which identifies its vision, ultimate outcomes, and strategic priorities focused on the longer-term nature of these projects. These long-term strategic plans should each be supported by a five-year investment plan and annual work plans that identify priorities, commitments and expected outcomes based on approved funding levels, as well as the allocation of resources to deliver on the annual plans.</p>	<p>Management agrees. In response to Recommendation 4, both the TMX and Line 3 IAMCs are having long-term strategic planning discussions as part of planning for work over the next five years. The action plan in response to Recommendation 4 is as outlined below.</p> <p>Target Completion: November 2024 (target date to validate with Communities at Line Wide Gatherings)</p>		
	1. [REDACTED].	<p>Leads:</p> <ul style="list-style-type: none"> • Director General, Partnerships and Engagement, Nòkwewashk, NRCan <p>Support:</p> <ul style="list-style-type: none"> • CER TMX-IAMC Representative • CER L3-IAMC Representative 	<ul style="list-style-type: none"> • November 2023: [REDACTED]
	2. The Committees will produce work plans to identify annual priorities. Workplans will be based on broader strategic goals and key pieces of work endorsed by Indigenous Caucus and will incorporate results of Line 3 and TMX regional engagements.	<p>Leads:</p> <ul style="list-style-type: none"> • IAMC-TMX Indigenous Co-Chair • Director, IAMC-TMX, Nòkwewashk, NRCan • IAMC-L3 Indigenous Co-Chair • Federal L3 Co-Chair, Director, IAMC-L3, Nòkwewashk, NRCan 	<ul style="list-style-type: none"> • June 2024: Submission of draft sub-committee and Indigenous Caucus workplans

Recommendation	Management Response and Action Plan	Positions Responsible	Milestones
<p>Recommendation 5: It is recommended that NRCan initiate discussions regarding longer term funding arrangements such as the establishment of the IAMCs as an ongoing initiative with permanent funding or longer term (e.g., 10-year) contribution funding. Alternative funding arrangements would be required should a decision be made to move the IAMC Secretariat to an external, Indigenous led body.</p>	<p>Management agrees. Impacted Nations have expressed their long-term goal of establishing a financially independent Indigenous Energy Regulator, supported by implementation of the <i>United Nations Declaration on the Rights of Indigenous Peoples Act</i> (UNDA). Governance discussions will inform measures to be written into IAMC Terms and Conditions for Grants and Contributions in the future. Exploratory steps in response to Recommendation 5 are as outlined below.</p> <p>Target Completion: June 2024</p>		
	<p>1. Direct conversations between Indigenous Caucus, leadership and central agencies, informed by Government funding decisions.</p>	<p>Leads:</p> <ul style="list-style-type: none"> • IAMC-TMX Indigenous Co-Chair • Federal Co-Chair, Director, IAMC-TMX, Nòkwewashk, NRCan • IAMC-L3 Indigenous Co-Chair • Federal L3 Co-Chair, Director, IAMC-L3, Nòkwewashk, NRCan 	<ul style="list-style-type: none"> • April 2024: Discussions completed.
	<p>2. Participate in the implementation of UNDA Action Plan Measure 34.</p>	<p>Leads:</p> <ul style="list-style-type: none"> • Director General, Partnerships and Engagement, Nòkwewashk, NRCan • Executive Vice President, Transparency and Strategic Engagement, CER <p>Support:</p> <ul style="list-style-type: none"> • IAMC-TMX Indigenous Co-Chair • IAMC-L3 Indigenous Co-Chair 	<ul style="list-style-type: none"> • Summer 2023: Co-development of Action Plan Measure. • Future milestones are being determined as part of UNDA Action Plan implementation process

Recommendation	Management Response and Action Plan	Positions Responsible	Milestones
	3. Participate in the development of Indigenous Ministerial Arrangements Regulations (IMARs).	Leads: <ul style="list-style-type: none"> Director General, Partnerships and Engagement, Nòkwewashk, NRCan Support: <ul style="list-style-type: none"> IAMC-TMX Indigenous Co-Chair IAMC-L3 Indigenous Co-Chair Vice President of System Operations, CER 	<ul style="list-style-type: none"> November 2022: IMARs Update Presented to IAMC-TMX Committee
	4. A long-term strategy plan that clarifies scope of work (i.e., what work would be considered beyond TMX / Line 3 program authorities), and other CER regulated projects.	Leads: <ul style="list-style-type: none"> Director General, Partnerships and Engagement, Nòkwewashk, NRCan Federal Co-Chair, Director, IAMC-TMX, Nòkwewashk, NRCan Federal L3 Co-Chair, Director, IAMC-L3, Nòkwewashk, NRCan CER TMX-IAMC Representative CER L3-IAMC Representative Support: <ul style="list-style-type: none"> IAMC-TMX Indigenous Co-Chair IAMC-L3 Indigenous Co-Chair 	<ul style="list-style-type: none"> April 2024: Conversations will begin on implementing Government funding decisions.
	5. Investigate examples that exist for securing long-term funding arrangements, informed by decisions in Government funding decisions.	Leads: <ul style="list-style-type: none"> Director General, Partnerships and Engagement, Nòkwewashk, NRCan 	<ul style="list-style-type: none"> April 2024: initiate discussions on long-term funding approaches

Recommendation	Management Response and Action Plan	Positions Responsible	Milestones
<p>Recommendation 6: It is recommended that NRCan, in collaboration with the IAMCs, conduct a governance review to identify and prioritize IAMC governance policies, procedures and practices that require strengthening and develop a plan to address any gaps. Further, it should ensure that all information related to the IAMCs' operations are located on an accessible and shared drive and Committees are provided with regular financial updates. The latter would require all participating departments to consistently track and report at least annually on their IAMC spending, progress on results and barriers to results achievement.</p>	<p>Management agrees. In response to recommendation 6, both Line 3 and TMX IAMCs will complete a review of Committee and Subcommittee governance policies, procedures, and practices, identifying strengths and opportunities for improvement, and making updates to IAMC policies, procedures, Terms of Reference, Program Terms & Conditions, and other measures as needed to better align with priorities.</p>	<p>Leads:</p> <ul style="list-style-type: none"> • IAMC-TMX Indigenous Co-Chair • Federal Co-Chair, Director, IAMC-TMX, Nòkwewashk, NRCan • IAMC-L3 Indigenous Co-Chair • Federal L3 Co-Chair, Director, IAMC-L3, Nòkwewashk, NRCan 	<p>Government funding decisions expected in April 2024 will inform governance discussions.</p> <p>Target Completion: March 2027</p>
<p>Recommendation 7: The IAMCs' purpose, work, and funding opportunities need to be more effectively communicated to potentially impacted Nations and communities. Therefore, NRCan should ensure the Indigenous Caucuses are effectively resourced to undertake in-person and virtual engagement with members of the potentially impacted Nations and communities.</p>	<p>Management agrees. In 2022, both IAMCs adopted a more responsive funding model that supports increased capacity for Indigenous Caucus staffing and outreach programs for Indigenous Caucus to have meaningful communication with potentially impacted communities. Strategic and adaptive use of social media and other technical tools will continue to be used to enhance the awareness of the IAMCs among impacted nations. The plans for both IAMCs to implement decisions in Budget 2024 will be co-developed. This will confirm costs, timeframe, and inform future planning decisions.</p>	<p>Leads:</p> <ul style="list-style-type: none"> • Director General, Partnerships and Engagement, Nòkwewashk, NRCan • Federal Co-Chair, Director, IAMC-TMX, Nòkwewashk, NRCan • Federal L3 Co-Chair, Director, IAMC-L3, Nòkwewashk, NRCan 	<ul style="list-style-type: none"> • June 2024: Initiate Co-Development of draft implementation plans • December 2024: Finalize implementation plans

Recommendation	Management Response and Action Plan	Positions Responsible	Milestones
<p>Recommendation 8: NRCan should undertake discussions with IAMC members to determine where the IAMC Secretariat should be placed to ensure effective operations and results achievement. Should the decision be made to continue with the Secretariat housed within government, it is recommended that NRCan, in discussion with IAMC members, develop a staffing plan for the Secretariat (including the G&Cs unit) with the required positions, levels, competencies and skills to support each IAMC. In staffing the Secretariat, preference should be given to Indigenous employees. Given the long-term nature of these Committees, NRCan should seek approval to staff the Secretariat using permanent staffing measures.</p>	<p>Management partly agrees. In response to Recommendation 8, NRCan will continue to develop effective Secretariat teams through the attraction, recruitment, retention, and development of staff for this unique work. Preference will be given to Indigenous employees. The IAMCs, as part of the overall governance review within long-term strategic planning for the IAMCs, will examine the implications and resources required for an externally placed Secretariat, with clear roles and responsibilities (see Recommendation #5).</p>	<p>Leads:</p> <ul style="list-style-type: none"> • Director General, Partnerships and Engagement, Nòkwewashk, NRCan • Federal Co-Chair, Director, IAMC-TMX, Nòkwewashk, NRCan • Federal L3 Co-Chair, Director, IAMC-L3, Nòkwewashk, NRCan <p>Support:</p> <ul style="list-style-type: none"> • IAMC-TMX Indigenous Co-Chair • IAMC-L3 Indigenous Co-Chair • CER TMX-IAMC Representative • CER Line 3-IAMC Representative 	<ul style="list-style-type: none"> • July 2024: Examine the implications and resources required for an externally placed Secretariat • November 2024: Validate a proposed approach for a Secretariat with Communities at Line Wide Gatherings

Recommendation	Management Response and Action Plan	Positions Responsible	Milestones
<p>Recommendation 9: It is recommended that NRCan, working with representatives of each IAMC, review from an Indigenous lens (e.g., Indigenous world views), co-develop and reframe the IAMC logic model as required. This review should seek agreement on the IAMCs' expected outputs and outcomes, key performance indicators and timing for data collection to inform ongoing monitoring and evaluation, and future evaluation framework.</p>	<p>Management agrees. The action plan in response to Recommendation 9 is as outlined below.</p> <p>Target Completion: November 2025 (target date to validate the IAMC logic model with Communities at Line Wide Gatherings)</p>		
	<p>1. Co-developing a logic model would support future evaluations, as well as the performance framework referenced in response to Recommendation 3. Input from impacted nations is also required - a new logic model could be a topic for future regional or line-wide engagement events (Recommendation 7).</p>	<p>Leads:</p> <ul style="list-style-type: none"> IAMC-TMX Indigenous Co-Chair Federal Co-Chair, Director, IAMC-TMX, Nòkwewashk, NRCan IAMC-L3 Indigenous Co-Chair Federal L3 Co-Chair, Director, IAMC-L3, Nòkwewashk, NRCan <p>Support:</p> <ul style="list-style-type: none"> IAMC-TMX Federal Representatives from TC, ECCC, DFO, CCG CER TMX-IAMC Representative CER Line 3-IAMC Representative 	<ul style="list-style-type: none"> January 2024: Begin logic model discussions with working groups.
	<p>2. For advice on a culturally appropriate logic model, the IAMCs will develop Elder and/or Youth working groups. These working groups or circles may also provide guidance on the overall strategic plans and governance models in Recommendation 4.</p>	<p>Leads:</p> <ul style="list-style-type: none"> IAMC-TMX Indigenous Co-Chair Federal Co-Chair, Director, IAMC-TMX, Nòkwewashk, NRCan IAMC-L3 Indigenous Co-Chair Federal L3 Co-Chair, Director, IAMC-L3, Nòkwewashk, NRCan 	<ul style="list-style-type: none"> November 2024: Discuss formation of working groups at Line Wide Gatherings, for the purpose of feeding into logic model.

Recommendation	Management Response and Action Plan	Positions Responsible	Milestones
<p>Recommendation 10: It is recommended that NRCan monitor and report on the economic benefits that are realized by potentially impacted Indigenous Nations and communities from these large energy projects.</p>	<p>Management partially agrees. Financial reporting that is meaningful and accessible is what nations are asking for, however, total economic benefits that are realised by potentially impacted Indigenous Nations are often included in confidential agreements between the proponent and the Nation. It may be possible to compel proponents to share the number of agreements, but this may not meet the expectations of potentially impacted nations. Management actions in response to Recommendation 10 are as outlined below.</p> <p>Target Completion: December 2025 following all departments finalizing and securing approval for implementations plans following Government funding decisions expected in 2024.</p>		
	<p>1. A scan of all IAMC G&C dollars (current and from the start of the IAMCs) including information about community impact and benefits will be collated into a dashboard, and then published to both IAMC websites as part of on-going updates to impacted nations.</p>	<p>Leads:</p> <ul style="list-style-type: none"> • Director General, Partnerships and Engagement, Nòkwewashk, NRCan • Director General, Reconciliation Implementation, Nòkwewashk, NRCan <p>Support:</p> <ul style="list-style-type: none"> • Director, IAMC-TMX, Nòkwewashk, NRCan • Federal L3 Co-Chair, Director, IAMC-L3, Nòkwewashk, NRCan • Director, Program Delivery & Transformation, Nòkwewashk, NRCan 	<ul style="list-style-type: none"> • April 2024: To begin scan of dollars post-fiscal year-end.
	<p>2. The National Benefits Sharing Framework (NBSF) is currently being developed and indicators to measure the success of its implementation will be established following engagement with key stakeholders and the development of the Framework's key components with Indigenous groups.</p>	<p>Leads:</p> <ul style="list-style-type: none"> • A/Assistant Deputy Minister, Nòkwewashk, NRCan 	<ul style="list-style-type: none"> • February 2024: Winter 2024-beyond is when NBSF Framework implementation is set to begin.

Recommendation	Management Response and Action Plan	Positions Responsible	Milestones
	3. TMX-IAMC has already begun a program around IAMC socioeconomic monitoring, and this will be completed by Summer 2024.	Leads: <ul style="list-style-type: none"> IAMC-TMX Indigenous Co-Chair Chair of the Socioeconomic Subcommittee Support: <ul style="list-style-type: none"> Federal Co-Chair, Director, IAMC-TMX 	<ul style="list-style-type: none"> Summer 2024: Socioeconomic Subcommittee program will be completed.

Footnotes

Footnote 1

See "Rights of the Aboriginal Peoples of Canada," Part II of the Constitution Act, 1982, being Schedule B to the Canada Act 1982 (U.K.), 1982, c. 11, s. 35.

1

Footnote 2

Orders-in-Council

2

Footnote 3

There are a number of Indigenous Nations and communities that will be potentially impacted by both major projects. The evaluation has estimated that the total potentially impacted across the two projects is 221.

3

Footnote 4

The intent of the Operations Sub-Committee is to enable the IAMC-TMX to focus on high-level, strategic discussions. Its work focuses primarily on three streams: operational functions, communications and engagement, and finance (grants and contributions).

4

Footnote 5

As a normal part of the federal funding allocation process, a percentage of funds is transferred to support core corporate functions such as the federal Employee Benefits Program, workplace accommodations provided by Public Services and Procurement Canada and core information technology infrastructure and support provided by Shared Services Canada.

5

Footnote 6

The timeframes for this evaluation are 2016-17 to 2020-21. Financial data for 2021-22 were only examined in relation to planned expenditures.

6

Footnote 7

ECCC was not allocated any new funding. Rather funds identified in Table 2 were expected to be reallocated internally to support ECCC's participation in the IAMC (i.e., travel to IAMC events and meetings, and support to ongoing Committee work).

7

Footnote 8

\$51,628,125 including 2021-22

8

Footnote 9

\$15,216,825 including 2021-22

9

Footnote 10

Statement by the Prime Minister of Canada after delivering a speech to the Assembly of First Nations Special Chiefs Assembly.

10

Footnote 11

2015 Speech from the Throne, Government of Canada and 2019 Speech from the Throne, Government of Canada

11

Footnote 12

Full implementation of UNDRIP is set out in Prime Minister Justin Trudeau's December 16, 2021 Natural Resources Mandate Letter. All mandate letters.

12

Footnote 13

United Nations Declaration on the Rights of Indigenous Peoples Act (2021).

13

Footnote 14

Letter from the Indigenous Caucus Chair of the IAMC on the Trans Mountain Expansion and Existing Pipeline to the Minister of Natural Resources Canada. March 31, 2021.

14

Footnote 15

Merriam Webster Dictionary - Consensus; Dictionary.com - Consensus

15

Footnote 16

Compliance verification activities

16

Footnote 17

IAMC-TMX Indigenous Monitoring Interim Report, 2018, PDF - 511 KB

17

Footnote 18

[Joint agreement to make continual improvements Indigenous monitoring Trans Mountain Pipeline Expansion Project](#), PDF - 786 KB

[18](#)

Footnote 19

[Indigenous Monitoring Program](#)

[19](#)

Footnote 20

The Indigenous Caucus (Caucus) of the IAMC-TMX submission to the House of Commons Standing Committee on the Status of Women re: Resource Development and Violence Against Indigenous Women and Girls, May 2022.

[20](#)

Footnote 21

[CER – Introduction and Disposition \(an excerpt from the Reconsideration Report\)](#)

[21](#)

Footnote 22

[IAMC-TMX Committee Newsletter June 2021](#), PDF – 2.8 MB.

[22](#)

Footnote 23

The right-of-way (ROW) is the strip of land for which a company has obtained the right to construct and operate a pipeline. The width of the right-of-way varies according to the size, routing and number of pipelines.

[23](#)

Footnote 24

IMs also participate in DFO site inspections. However, limited feedback was collected through the evaluation to comment on the effectiveness of the relationship between IMs and DFO.

[24](#)

Footnote 25

Alignment sheets are drawings that graphically show the exact route and location of the pipeline and associated facilities and all the knowledge that exists for a pipeline when it is being designed.

[25](#)

Footnote 26

[Indigenous Monitoring Program](#)

[26](#)

Footnote 27

Budget 2022 renewed the IAMCs for just two years (i.e., \$27.9 million over two years, starting in 2022-23).

[27](#)

Footnote 28

Indigenous Partnerships Office-West Performance Information Profile, 2019

[28](#)

Footnote 29

[CER – The path to advancing Reconciliation at the CER](#)

29

Footnote 30

Chance Finds are previously unidentified potential Traditional Land Use or Heritage Resource that is found by chance during construction activity.

30

Footnote 31

Rights-based issues refers to rights that are recognized through existing treaties and agreements or historic rights. Rights-based issues can be broadly defined as issues impacting Indigenous rights to land, subsistence resources and activities, self-determination and self-government, and the right to practice culture and customs (University of British Columbia).

31

Footnote 32

Petronas Media Release, 2017.

32

Footnote 33

NRCan 2021-22 Departmental Results Report.

33

Footnote 34

NRG is owned and managed by Naut'sa mawt Tribal Council, a non-profit society that provides advisory services.

34

Footnote 35

Originally named the Major Project Management Office-West, then Indigenous Partnerships Office-West.

35

Footnote 36

BC First Nation Health Authority.

36

Footnote 37

Clean Air Strategic Alliance

37

Footnote 38

For example, information relates to number of people trained in monitoring, number of communities impacted, age range of participants, transferability of skills, hiring Economic Development Officer and development of a Community Economic Development Strategy, traditional land use strategy; number of information sharing/community engagement sessions; research and reporting on emergency preparedness of potentially impacted communities and nations; as well as challenges related to implementing the project.

38

Footnote 39

Indigenous Opportunities Across the Pipeline

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Footnote 40

[Enbridge - Indigenous inclusion and success, PDF – 1MB](#)

[40](#)

Footnote 41

[Indigenous Natural Resource Partnerships \(INRP\) Program](#)

[41](#)

Footnote 42

[Department of Finance News - Government announces next steps on Trans Mountain Expansion Project](#)

[42](#)

Footnote 43

[Letter from L3 IAMC Indigenous Caucus to Minister](#)

[43](#)

Footnote 44

More information on the [National Benefits-Sharing Framework](#)

[44](#)

Footnote 45

[Truth and Reconciliation Commission of Canada: Calls to Action, 2015](#)

[45](#)

Date modified:

2025-01-08