

# Indigenous Circle of Experts

## Terms of Reference

The Pathway to Canada Target 1 is a national initiative involving federal, provincial, and territorial governments, Indigenous governments, communities, and organizations across Canada<sup>i</sup> working to develop a pathway outlining how jurisdictions can contribute to conserving at least 17 percent of Canada's terrestrial and inland water areas by 2020. Details regarding the Pathway initiative can be found in the Terms of Reference for the overall initiative. This Terms of Reference summary provides details on the role and functioning of the Indigenous Circle of Experts (ICE), which is the primary body within the Pathway initiative to provide Indigenous expert advice on various Pathway elements, and to lead efforts to address Indigenous Protected and Conserved Areas (IPCAs).

### INDIGENOUS CIRCLE OF EXPERTS

It is well understood that Canada Target 1 will only be achieved through mutually beneficial partnerships and collaboration between Indigenous Peoples and various government (federal, provincial, territorial, and local) and non-government interests. To that end, the Pathway initiative has been designed to reflect a renewed nation-to-nation relationship that respects the rights, responsibilities, and priorities of Indigenous Peoples, and supports their involvement in every aspect of the initiative. This is expected to include participation on the National Steering Committee, as well as presentation on the National Advisory Panel. Additionally, the ICE is being created to ensure Indigenous expert advice is applied to various elements of the Pathway initiative, with the expectation that IPCAs will contribute toward Canada's international commitments regarding protected and conserved areas.

Both Aichi Target 11 and Canada Target 1 recognize that a combination of protected areas and other effective area-based conservation measures (OECM's) could contribute to the recovery of *biodiversity* and the 17 percent target for conserving terrestrial areas and inland waters. In Canada, IPCAs are considered to be distinct from other areas counted as protected areas or OECM's, due to the unique relationship Indigenous Peoples maintain with their traditional territories, and the rights and responsibilities that ground interactions with various governments.

Formal recognition of IPCAs is a new concept in Canada compared with other countries. Based on such examples, IPCAs are expected to make a significant contribution to Canada Target 1 and other matters of importance to Indigenous Peoples in Canada. To that end, the ICE will develop a proposed term and definition for a spectrum of Canadian IPCAs, along with defining principles, characteristics, and elements.

In addition to IPCAs, the ICE will provide opportunities for members to inform other Pathway elements, including the work of the National Advisory Panel and Expert Task Teams. This will ensure the broader objectives of Canada Target 1 involve consideration of Indigenous expert knowledge prior to recommendations being developed and presented to ministers. Additionally, this will ensure the efforts of ICE and other Pathway bodies are coordinated and aligned toward a common purpose.

Note: The ICE is not a consultation body, and events in support of the ICE are not intended to be consultation with Indigenous Peoples. Recommendations made by the ICE, and participation by ICE members, are without prejudice to the positions of ICE members and

their respective governments or representative organizations.

## ETHICAL SPACE

The Pathway to Canada Target 1 is a national initiative undertaken in a time of dynamic change. The ICE members aspire to frame their work in an ethical space that informs the participation of ICE members and their deliberations. This ethical space is a co-created space through which different knowledge systems, lived experiences, perspectives, understandings, language, and dialogue may be carried out in a respectful, conscientious, and deliberate manner.

This ethical space is akin to a window or a framework defined by/created by the following: The United Nations Declaration on the Rights of Indigenous Peoples; the Truth and Reconciliation Commission of Canada Calls to Action; the Canadian Constitution; Treaties, Agreements, and Other Constructive Arrangements<sup>ii</sup>; and Canada's international commitments as represented by the *Aichi Targets* [and further to international law such as related multilateral environmental agreements, human rights instruments, and customary international law.] The work of the ICE is therefore a manifestation of reconciliation and a contributor to reconciliation in a rapidly changing world.

## PRINCIPLES

The work of the ICE will be grounded in and reflect the principles of the overall Pathway initiative, including: reconciliation, respect, inclusiveness and collaboration, transparency, innovation and creativity, and evidence-based decision-making grounded in science and traditional knowledge.

Recommendations of the ICE regarding IPCAs will be grounded in the following principles, to be defined through the work of the Circle, and incorporated in the final version of the ICE Report: jurisdictional solutions, *capacity*

development, financial support, and prioritizing matters of importance to Indigenous communities (e.g., keystone species, cultural sites and practices).

## MANDATE

1. A subset of the ICE, consisting of Indigenous members, will interact with Expert Task Teams to ensure Indigenous expert advice and perspectives are considered in the development of discussion papers on qualitative elements of Canada Target 1.
2. The ICE will work with the National Advisory Panel, National Steering Committee and Expert Task Teams to align efforts and mutually inform each other's deliverables.
3. The ICE will produce a deliverable in the form of a publicly accessible report that provides information and recommendations on IPCAs in Canada, with a focus on the conditions needed for IPCAs to contribute toward achieving Canada Target 1.
4. The ICE will provide the final IPCA report by October 15, 2017 to Pathway ministers and Indigenous organizations for consideration.
5. The mandate of the ICE extends from March 2017 to March 2018.

## SCOPE OF WORK

The ICE is responsible to contribute its expertise to the work of the National Advisory Panel and Expert Task Teams, and other complimentary initiatives as appropriate. To that end, a subset of the ICE, consisting of Indigenous members, will provide advice to Expert Task Teams to inform the development of discussion papers on qualitative elements of Canada Target 1. The ICE and National Advisory Panel will interact periodically to align efforts and recommendations to the extent possible.

The ICE is responsible for producing a report that provides information and recommendations on how IPCAs can contribute to achieving the goals

of Canada Target 1 for terrestrial and inland water areas in the spirit and practice of reconciliation. The IPCA report will:

- a. outline a proposed term and definition for Canadian IPCAs;
- b. identify key principles and characteristics to identify and support a spectrum of IPCAs in Canada;
- c. describe the relationship between IPCAs and existing protected area and conservation networks; and
- d. highlight existing research and lessons learned in Canada and other jurisdictions.

While the focus of ICE is to develop the key deliverable of an IPCA report and recommendations toward achieving Canada Target 1, the ICE may also make recommendations on the contribution of IPCAs toward achieving conservation objectives beyond 2020.

Subsequent to delivery of the IPCA report on October 15, 2017, the ICE will develop an extended scope of work to the end of the stated mandate in consultation with the Steering Committee Co-Chairs.

While the ICE is not responsible to produce recommendations on IPCAs in marine areas, though the work of the ICE is expected to be complementary for those areas, and reflect a holistic approach to conservation of areas of importance to Indigenous Peoples within their traditional territories.

## MEMBERSHIP

ICE is comprised of 19 members, including subject matter experts selected by the ICE co-chairs, the Assembly of First Nations, Inuit Tapiriit Kanatami, Metis National Council, Indigenous individuals, and Indigenous, federal, provincial and territorial governments. Members of the ICE may include:

- 2 members selected by the Assembly of First Nations;
- 1-2 members selected by the Inuit Tapiriit Kanatami;
- 1 member selected by the Metis National Council;
- 8 Indigenous conservation experts selected by the ICE co-chairs;
- 1 member each from the governments of British Columbia, Northwest Territories, Ontario, Nova Scotia and Alberta; and
- 1 member each from Environment and Climate Change Canada, Fisheries and Oceans Canada,
- Indigenous and Northern Affairs Canada, and Parks Canada Agency.

In the event the Assembly of First Nations, Inuit Tapiriit Kanatami, or Metis National Council do not wish to select members for participation on the ICE, the ICE chair may select additional experts to bring the number of members to 20. The total number of members may exceed 20 with the agreement of the National Steering Committee.

## TIMELINES AND EVENTS

The first phase of ICE will operate from March 2017 to October 15, 2017. Over that period, ICE members will attend five in-person meetings, and participate in bi-weekly virtual meetings. The frequency of in-person meetings will be as follows, with specific dates to be determined in consultation with ICE members:

- March 27-28, 2017 – Ottawa, ON
- May 8-9, 2017 – Tofino, BC
- June 5-7, 2017 – Ottawa, ON
- Subsequent dates and locations to be confirmed

Indigenous members of the ICE will attend two additional in-person meetings to provide expert advice to Expert Task Teams on the development of their discussion papers. Meetings with Expert

Task Teams will take place between May and August 2017.

ICE members may be invited to attend Regional Gatherings and site visits with Indigenous community representatives and other interested parties, preferably within their respective regions. Gatherings and site visits will be an essential means for ICE members to engage with diverse communities and site circumstances, and obtain input on draft versions of the ICE Report.

Specific dates and locations for Regional Gatherings (three) and site visits (five) will be confirmed following the first ICE meeting in March 2017. Additional gatherings and site visits may be undertaken prior to or following the completion of the ICE Report, depending on the need, level of interest, and availability of funding.

A first dialogue between the ICE and the National Advisory Panel is targeted for June 2017, with the final report targeted for presentation to the National Steering Committee by the October 15, 2017.

## **METHOD OF WORK AND SUPPORT**

The ICE is not government-led, nor is it expected to follow formal processes or procedures. Rather, the intent is to rely on subject matter experts with relevant backgrounds to work together to produce the best advice and recommendations to be included in Pathway deliverables.

The ICE will operate on the basis of consensus where every member has equal opportunity to express their views.

Members are encouraged to bring their unique perspectives to the subject matter, but must remain un-biased in assessing and presenting options and recommendations to be included in Pathway deliverables.

Subject to availability of funding, the ICE may invite other subject matter experts, community

representatives, Elders, youth, and others to present at scheduled meetings.

With the exception of scheduled in-person meetings and events, most work of the ICE will be conducted through video conferences, teleconferences, and electronic communications (email, Web application for collaborative projects, etc.). An online collaboration site has been created for the Pathway initiative for ICE members to communicate outside of meetings.

The operation of the ICE will be supported by the Pathway Secretariat, including administrative support, logistical support for meetings, research, and technical support, and other support services as required.

Where financial support for the participation of ICE members is required and not covered by other means (e.g., contribution agreements), support will be provided as follows:

- Travel expenses will be reimbursed at cost on submission of claims and receipts, consistent with Government of Canada policies and guidelines.
- Honorariums will be provided for certain members upon request following Government of Canada Cost Recovery Regulations.

## **OPERATING PROCEDURES**

### **1. Meetings**

- 1.1 Meetings will be task-oriented with agendas and supporting information prepared and distributed to members in advance.
- 1.2 Agendas will not preclude discussion of other topics that arise or are put forward by members.
- 1.3 Members may offer to co-host an in-person meeting in their region.
- 1.4 Meetings will be facilitated primarily by the co-chairs, with assistance from members, and Pathway Secretariat

- support, unless otherwise determined by consensus of members.
- 1.5 Minutes without attribution will be taken during the meeting, summarizing general topics discussed, and will be distributed to members within one week of the meeting.
  - 1.6 Members will be encouraged to provide feedback on the minutes and changes will be made where appropriate.
  - 1.7 Planning of in-person meetings will respect the schedules of members to the extent possible and with reasonable notification time.
  - 1.8 A schedule of calls, proposed meetings and progress updates will be established and distributed to all members for discussion during the first in-person meeting.
- 2. Co-Chair roles**
- 2.1 The chair will be designated by the National Steering Committee.
  - 2.2 At the first in-person meeting, members will nominate from the existing members a co-chair to support the chair and assume the responsibilities outlined below in the chair's absence.
  - 2.3 Meeting responsibilities of the chair include a number of duties, which will be assisted by Pathway Secretariat support:
    - 2.3.1 Keeping discussions focused, ensuring all views expressed by members are heard and facilitating the meetings within the spirit of these operating procedures.
    - 2.3.2 Taking a proactive role to assist members to identify issues, and structure discussion to encourage understanding of members' views and underlying rationales.
    - 2.3.3 Ensuring all members have equal opportunity to express their views.
  - 2.4 Select members of the Pathway Secretariat will support the co-chairs in performing their roles.
  - 2.5 The co-chairs will be the assigned spokespersons when reporting and

presenting the work of the ICE to the National Steering Committee and National Advisory Panel.

**3. Members' roles**

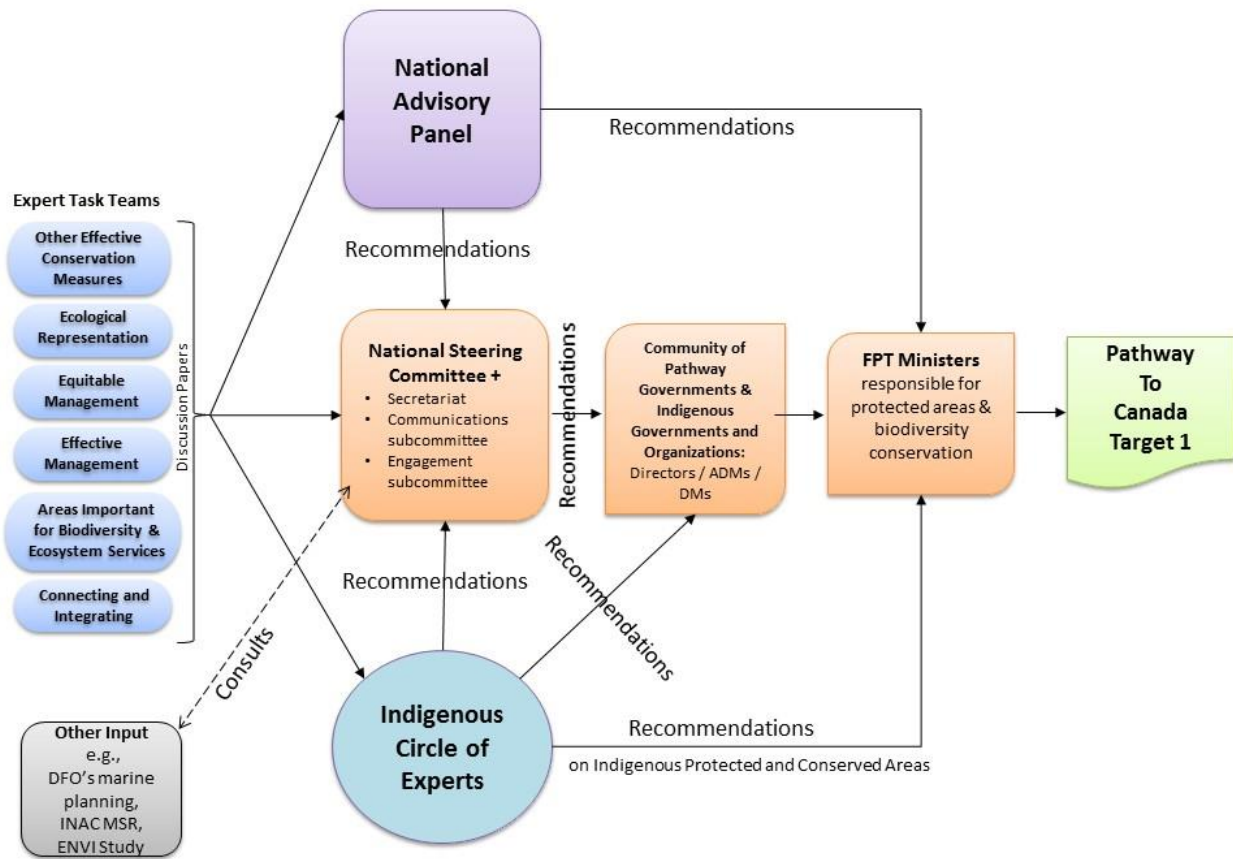
- 3.1 Members will make every possible effort to attend meetings and participate in the work of the ICE.
  - 3.2 Members are expected to review information and materials provided in advance of the meetings.
  - 3.3 All members should anticipate a time commitment of six hours per week until September 2017, and four to five hours per week from October 2017 to March 2018.
  - 3.4 Indigenous members should anticipate an additional time commitment of three hours per week until June 2017 in support of the work of Expert Task Teams.
  - 3.5 Members may be invited to participate in Regional Gatherings and site visits, preferably in their region, which will be attended by up to two members additional to the co-chairs.
  - 3.6 Members that participate in site visits are expected to bring their learning and knowledge acquired through those visits for incorporation into the work of the ICE.
  - 3.7 On a case-by-case basis, members may designate an alternate to participate in their place at meetings, and will ensure alternates are informed on discussion topics and able to provide meaningful input on behalf of the absent member.
  - 3.8 Members will participate respectfully and act in good faith on all aspects of the process.
- 4. Decisions**
- 4.1 The ICE will operate on the basis of consensus, and strive to reach consensus decisions.
    - 4.1.1 Where consensus is reached, it will be reflected explicitly in meeting minutes.

- 4.1.2 The degree of consensus required can be decided by members on an issue-by-issue basis.
- 4.1.3 Members may allow a recommendation to proceed with reservations, which will be noted in the minutes.
- 4.2 Decisions of the ICE will be reflected in the draft document and shared with members for feedback and revisiting if required.
- 5. Report and Recommendations**
- 5.1 Drafts of the report will be developed following each meeting and shared among members for review and feedback.
- 5.2 An interim report will be presented to the National Advisory Panel to provide Panel members an opportunity to comment and

provide suggestions, and likewise inform the thinking of the Panel.

- 5.3 The final report with recommendations will be reviewed and endorsed by the ICE before distribution to the National Steering Committee or Pathway ministers and Indigenous organizations.
- 5.4 The final report and recommendations will be made available in both official languages, and Indigenous languages as appropriate.
- 5.5 Draft and final documents will be written in plain language.

This Terms of Reference is a living document which may be revised from time to time by the parties concerned in accordance with a process to be determined by them on a consensus basis.



Pathway to Canada 1 Target – Draft Workflow Schematic

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<sup>i</sup> All references in this document to Canada Target 1 are limited to terrestrial and inland water components of the target, and do not include marine components that will be addressed through processes led by Fisheries and Oceans Canada in collaboration with provincial and territorial governments and interested Canadian organizations.

<sup>ii</sup> Treaties, Agreements and Other Constructive Arrangements, includes but is not limited to historic Treaties, modern day Treaties, self-government agreements, comprehensive claims, specific claims, and other constitutional instruments or arrangements.