React to the symptoms or treat the underlying problems?
A comparison of two basic approaches to addressing the deficiencies of the *Canadian Environmental Assessment Act*

Supplementary submission to the Standing Committee on Environment and Sustainable Development concerning the review of the *Canadian Environmental Assessment Act*

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Preface and summary

This supplementary submission has been prepared in the context of the Committee's decision to end its hearings in the statutory review of the Canadian Environmental Assessment Act (CEAA), to proceed immediately to report drafting, and to issue drafting instructions listing ten topics of particular interest, many of them broadly related to efficiency considerations.

The comments and analysis below follow from my submission and oral presentation on 3 November.

The submission consists of
- four initial points on the interdependency of efficiency and effectiveness and the broad implications for your report;
- a brief discussion and summary table that compare possible responses to three problems with the current environmental assessment law and its application that appear to have been motivating concerns underlying the Committee's directions for report drafting; and
- a second table that provides a more comprehensive review considering all the core categories of requirements for effective environmental assessment law, setting out the essentials of how these should be addressed in drafting an improved Canadian Environmental Assessment Act, and noting where these matters fit with the Committee's drafting instructions.

The core point is that the drafting instructions provide suitable openings for an approach to improving CEAA that may focus initially on matters of efficiency but also deliver significant enhancements of effectiveness as well. The discussion compares two sets of responses to recognized current deficiencies in the design and application of CEAA: responses focused on immediate symptoms and responses focused on underlying problems. The discussion notes where the symptomatic approach is likely to impair both efficiency and effectiveness. In contrast, the approach centred on underlying problems is likely to deliver considerably more efficient and effective assessment work.

1. Initial general comments:

1. There is a baby in the bathwater

Environmental assessment is the federal government's main direct vehicle for improving the conception, planning, selection, design and implementation of new projects within its jurisdiction. The concept and its application are difficult, constantly in conflict with authorities driven by other narrower and more immediate mandates and motives, and still far from mature. But it needs to be strengthened as well as streamlined.

2. Efficiency is only helpful if it enhances effectiveness and fairness.

Many of the most serious weaknesses in the Canadian Environmental Assessment Act were identified when the current law was introduced and have been examined and debated for years. As a result, the base of experience is now certainly deep enough that the most significant continuing deficiencies and opportunities are quite evident. It is possible that the various major interests – proponents of undertakings, federal government agencies responsible for reviews and approvals, provincial and territorial authorities, Aboriginal governments, public interest groups and concerned citizens – would agree on the list of major assessment issues, though they would have understandably different perspectives on the priorities for action.[1] Certainly it has long been evident that the problems to be addressed are deeply intertwined and cannot be addressed effectively by a few simple actions targeting a few of the most obvious symptoms.

What is needed and possible today is serious public examination of the options for improving federal environmental assessment law and implementation, recognizing that there are strengths to be preserved and positive opportunities to be pursued as well as problems to be corrected, and recognizing that the opportunities and problems are interconnected and the solutions need to be identified, evaluated and designed as a package.

3. The superficial inefficiencies are not the fundamental ones.

Undue delay in deliberation and decision making can and does happen at several points throughout the CEAA process. While most of the evidence of process inefficiency is anecdotal, there are plenty of anecdotes. Unfortunately, there has been relatively little careful examination of the underlying problems. The usually proposed responses consequently tend to focus on quick and apparently easy steps to remove the symptoms.

The most frequent complaints include the following four:

- that federal assessment requirements often overlap with and to some extent duplicate those of other (provincial, territorial, Aboriginal and probably most often regulatory) authorities;
- that assessment reviews take too long and final decisions can be late enough to delay projects without achieving compensatory improvements;

[1] The extent of agreement that was reachable over a decade ago is evident in the multi-stakeholder consensus draft 14 of the Canadian Standards Association EA standard exercise. See the CSA document submitted earlier to the Committee: The Working Group of the EIA Technical Committee, *Preliminary Draft Standard: Environmental Assessment*, Draft #14, Canadian Standards Association, July 26, 1999.

• that too many small projects are being assessed in exercises requiring time and resources but not having important substantive effects; and
• that assessment requirements are not consistent and the results are not predictable.

The most tempting simple responses at the federal level are
• to cut duplication by eliminating many federal assessment requirements and leaving assessment to the provinces and territories, all of which have assessment requirements of some sort;
• to substitute other federal processes (typically sector-focused regulatory regimes) for assessment review by a CEAA-based body
• to impose mandatory time limits for review and decision assessment steps;
• to exempt small projects; and
• to allow narrowing of the scope of assessments in particular cases in hopes of "more predictable" results.

While some of these steps may have merit in particular applications, they mostly risk undermining assessment effectiveness and may worsen inefficiencies (e.g. by relying on the wildly uneven diversity of provincial and territorial processes, and by introducing yet more openings for negotiation of requirements).

Moreover, the usual simple responses fail to address the main underlying causes of assessment inefficiency. These underlying causes are numerous and interrelated in complex ways but a reasonable basic list is the following:
• failure to harmonize federal and provincial, territorial and Aboriginal assessment regimes (no two are the same and the differences are significant);
• reliance on project level assessments to address major broad public policy, regional planning and/or cumulative effects issues in the absence of a credible, legislated foundation for strategic assessments that could provide the appropriate venue for examining the reasonable options and providing guidance to the project level;
• insufficient efforts to consolidate small assessment reviews to address cumulative effects and provide streamlined standard guidance for individual projects;
• late initiation of many assessments (e.g. due to late triggering under the Law List provisions), often well after environmental considerations can be efficiently and effectively integrated into the planning, selection and even general design of an anticipated undertaking;
• confusion about how to satisfy duties to consult with and respect the interests of those holding Aboriginal and treaty rights;
• lengthy deliberations about assessment requirements (because federal and provincial requirements differ, because some CEAA requirements are negotiable, because the definition of "environment" is confusing and often inappropriate, etc.);

• needs to extend assessment review periods to get supplementary information on from proponents who submit inadequate assessment work perhaps because they see assessment requirements as a regulatory hoop rather than a component of good planning;
• further slowing of assessment reviews by delayed responses from government reviewers who lack the necessary capacity and/or agency motivation,
• difficulties in ensuring adequate time for effective public engagement, especially when assessments begin late.

4. The ultimate question is what serves the public interest and delivers a positive legacy

On the day I appeared before the committee, Mr. Sopuck asked an important question that, because of time limitations, did not get a response. The question, as I recall it, centred on the matter of purposes concerning projects subject to environmental assessments. Mr. Sopuck was chiefly concerned with private sector projects subject to assessment requirements and observed, reasonably, that private sector proponents had purposes tied to the interests of their shareholders and were likely to be well positioned to understand those interests. What then is the point of examining purposes in such cases?

The superficial answer is that CEAA and other such legislation aims to serve a broad public interest (as set out in section 4 of the Act) and the interests of shareholders in a particular company are inevitably narrower. But Mr. Sopuck's question merits a deeper response. The public interest purposes of CEAA are special in that they include direct reference to promoting sustainable development (s.4(1)(b)), defined (in s.2(1)) with the common reference to the Brundtland Commission's language about meeting "the needs of the present, without compromising the ability of future generations to meet their own needs." The purposes of CEAA, and accordingly the purposes to be served by projects assessed under it, are intergenerational as well as immediate. They have to do with the legacy of a project, not just the immediate prospects for desired benefits, public or private.

All advanced jurisdictions have environmental protection law because neither public nor private sector proponents could be relied upon to incorporate due attention to environmental effects voluntarily. In the absence of legal obligation, the proponents' dedication to narrower interests – particular mandates or financial imperatives – too often prevailed over environmentally responsible inclinations. We have now become accustomed to environmental laws requiring all proponents to avoid significant adverse effects even where compliance is inconvenient. Environmental assessment legislation that accepts a commitment to sustainability adds an explicit obligation also to address the longer term. Profitable private sector projects are needed for long term as well as for immediate gains. So are appropriate public sector undertakings. But not all projects that promise to be profitable, or to attract immediate public support, are likely to deliver a positive legacy, at least not without legislated direction to ensure that the initial conception, selection and planning of new projects (and in the case of governments, new policies, programmes and plans as well) aims to contribute positively to the socio-economic and biophysical environment over the long term.

2. Better responses to three key efficiency problems in current federal environmental assessment

Table 1, below, considers three problems that appear to have been recognized by the federal government, to have been motivating concerns underlying earlier amendments to CEAA. The analysis lists the main contributing causes of the identified problems and considers the extent to which the evidently tempting responses address these causes.

Table 1 Three problems, contributing causes and superficial responses

The problem	The underlying problems needing attention	Tempting superficial responses	Potentially effective options
Delays and inefficiencies due to overlap and duplication, especially with provincial assessments	• Late triggering of federal environmental assessment, due to reliance on the law list trigger that recognizes environmental assessment requirements at the licensing stages and the failure of RAs to push anticipatory assessment initiation • Slow case by case negotiation of environmental assessment scope due to inconsistent/negotiable environmental assessment scope requirements (inclusion of social-economic effects, consideration of alternatives, etc.) and limited capacity and commitment of RAs	• Exempt many undertakings from federal environmental assessment (likely to rely on deferral of assessment responsibilities to the provinces, despite wide variation in provincial process strengths and weaknesses, limited provincial ability to deal with matters of federal responsibility,[2] and the general inadequacy of provincial provisions for ensuring effective public engagement) • Assign more coordination and	• Push harmonization of Canadian assessment processes through a collaborative application of a consistently strong federal process • Replace late triggering with pre-determined application • Maintain consistently broad scoping rules to avoid case-by-case negotiation of basic requirements

[2] See Arlene Kwasniak (2009), "Environmental assessment, overlap, duplication, harmonization, equivalency, and substitution: interpretation, misinterpretation, and a path forward," *Journal of Environmental Law and Practice*, 20:2, pp.1-35.

	• Wide variation of environmental assessment requirements across Canadian jurisdictions, and failure to establish a best practices standard for environmental assessment in Canada • Failure to emphasize the complementary benefits of interjursidictional environmental assessments and Inadequate use of tools already available to strengthen interjurisdictional assessment cooperation, including coordination of individual cases	negotiating responsibility to the Canadian Environmental Assessment Agency (despite a major cut to its budget) • Put more emphasis on case by case negotiation of narrowed project scope to cover only particular component or components (likely to add to negotiation delays related to scoping decisions, undermine assessment effectiveness, and reduce pressures for interjurisdictional cooperation to ensure a broadly effective and efficient assessment process) • Limit interjurisdictional harmonization efforts to specific cases.	• Integrate effective Aboriginal consultation from the outset of process application • Provide a legislated base for strategic level assessments; encourage collaborative federal-provincial/territorial initiatives at the strategic level to guide project scale assessments
Too much attention to minor undertakings and issues and too little attention to big issues and opportunities, especially cumulative	• Failure to consolidate minor assessment to address cumulative effects • Reliance on project level assessments to address cumulative effects that involve multiple present and potential projects and other factors beyond the project proponent's influence • Lack of an effective and credible strategic level assessment process to address cumulative effects and broad alternatives and	• Exempt whole categories of smaller undertakings without evidence on where formal assessment requirements are not longer needed or could be replaced by other pressures and/or scrutiny or could be replaced by class assessments • Neglect strategic level assessment	• Consolidate related small assessments to address cumulative effects and develop common guidance • Provide a legislated base for strategic level assessments to address regional and sectoral cumulative effects, including of minor

effects, broad alternatives	to provide authoritative guidance to project level assessment (leaving inappropriate burdens on proponents and other participants in reviews of individual undertakings to address cumulative effects and larger policy and planning issues) • Inadequate interjurisdictional harmonization to deal with overlapping cumulative effects and broad alternatives concerns • Generally mechanical approach to assessment of apparently minor undertakings, usually with little effort to engage the public interests that are most likely to identify unexpected concerns and promising alternatives	• Assume other jurisdictions will address any problems (despite highly diverse and uneven provincial laws and processes and the lack of provincial authority, motivation and capacity to cover matters of federal jurisdiction)	undertakings • Exempt small undertakings where a culture of incorporating attention to environmental effects has been demonstrated
Environmental assessment treated as an approval hoop requirement rather than a serious opportunity and requirement to incorporate environmental considerations in the planning of undertakings	• Environmental assessment often initiated too late to be integrated into basic selection and design of proposed undertakings • Uncertainty of environmental assessment scope due to negotiable components and other openings for avoidance of standard requirements • Emphasis on mitigation of adverse effects as a regulatory licensing matter, rather than attention to overall contributions to lasting gains (thus little basis or incentive for integration in core decision making) • Frequent political investment in the approval of undertakings prior to completion	• Continue to rely on frequently late triggering of the process and on CEAA's confusing and negotiable agenda (definition of "environment", inconsistent requirements re alternatives; negotiable terms of reference) • Treat environmental assessment as a mere regulatory tool and emphasize substitution of regulatory processes (e.g. NEB and CNSC) • Focus on mitigation of adverse effects rather than expectation that	• Replace late triggering with pre-determined application • Start assessment requirements with obligatory public notice at the initiation of planning (before preferred alternative identified) • Maintain consistently broad scoping rules to avoid case-by-case negotiation of basic requirements • Demonstrate serious

	of environmental assessment work	undertakings make a contribution to sustainability, leaving a biophysical and socio-economic positive legacy	commitment to effective assessment

The problems above cover only some of the concerns and opportunities that merit attention in renewal of CEAA. Even within this limited ambit, however, it is clear that the tempting responses to evident symptoms neglect most of the core underlying problems and may exacerbate problems they are intended to resolve. The clear implication is that narrowly symptom-focused amendments will not strengthen the federal environmental assessment process, or even resolve the problems underlying immediate concerns. This in turn suggests that a broader and more comprehensive approach is needed.

3. Where the core requirements for improving CEAA fit with the Committee's drafting instructions

The basic objective of environmental assessment law has been to force and guide careful attention to environmental considerations in the development, approval and implementation of undertakings that may have important effects. While most attention has been focused on approvals implications, environmental assessment is not meant to be regulatory exercise. Instead assessment is properly a constituent part of deliberations from the initial conception of purposes and options through to the eventual decommissioning or renewable of the undertaking. Also, even where assessments obligations are centred on biophysical aspects of the environment, these considerations are to be integrated into the overall decision making, recognizing the interactions and interdependencies of social, economic and ecological factors. Accordingly, environmental assessment has been consistently identified by international authorities as a crucial tool of sustainable development.

Over the years, environmental assessment theory and best practice have evolved in light of learning from experience within and beyond assessment application. Generally, assessment regimes have become

- more mandatory and codified in law and accompanying guidance;
- more widely applied to strategic undertakings (policies, plans and programmes, etc.) as well as physical projects and activities;
- more attentive to application earlier in planning, especially where critical attention to purposes and alternatives can be helpful;
- more open and participatory, in part through timely electronic access to documents and funding for public intervenors;

- more comprehensive of environmental concerns, including social, economic and cultural and biophysical factors and their interrelations, with attention to cumulative as well as individual effects and covering the full lifecycle of undertakings;
- more integrative, recognizing ecosystem and socio-ecological system behaviour;
- more accepting of different kinds of knowledge and analysis, including local and traditional knowledge;
- more carefully monitored as overall regimes as well as individual undertakings;
- more sensitive to complexity, uncertainty and the need for precaution;
- more often adopted beyond formal environmental assessment processes; and
- more ambitious, particularly in requirements to identify best options in light of positive as well as adverse effects and aims for positive contributions to sustainability as well as avoidance of significant adverse effects.

At the same time, environmental assessment regimes have become increasingly a focus of criticisms about process inefficiencies and unduly burdensome requirements. To some extent, these criticisms are a predictable response to obligations that demand new thinking and expertise, favour unfamiliar options, and impose new costs. Any requirements that are meant to challenge established practice are likely to be resisted. In the case of environmental assessment, the usual difficulties are exacerbated by conflicts with narrow economic motives and specific agency mandates, by the open ended complexity of systemic interactions and cumulative effects, and by the deep divide between business as usual and what might be sustainable in the long run.

In federal nations and in international applications, environmental assessment faces additional challenges because of the constitutional reality of multiple overlapping jurisdictions. In Canada, every province and territory imposes environmental assessment obligations, sometimes in a variety of forms applied under a range of laws targeting different sectors and activities. Many land claim agreements with Aboriginal authorities include assessment provisions. Canadian international assistance activities and other undertakings outside the country often involve a sharing of assessment responsibilities with other partners and recipient nations. And essentially similar requirements have been incorporated in a host of other laws and processes centred on land use planning, resource management and other conflict resolution.

None of these difficulties is an excuse for ineffective, inefficient or unfair assessment practice. On the contrary, effectiveness, efficiency and fair practice are all crucial if environmental assessment is to have any hope of facing its challenges well enough to facilitate transition to more sustainable behaviour.

In the interests of open exploration of positive options for improving CEAA and its implementation, the following Table 2, below, identifies the core categories for requirements for effective environmental assessment law, sets out the essentials of how these should

be addressed in drafting an improved Act, and identifies where these matters might be addressed under the ten matters listed as expected areas for recommendation in the drafting instructions provided by the Committee to its Library of Parliament analysts.

Table 2 Core requirements for improving CEAA and implications for the Committee's report

Core categories of requirements for effective environmental assessment	**Needed contents of improved Canadian Environmental Assessment Act**	**Where a suitable discussion and recommendations can be included under the 10 topics identified in the Committee's drafting instructions**
Central purpose to ensure positive contribution to sustainability	• Purposes section including commitments to - ensuring every assessed undertaking makes a positive contribution to sustainability - avoiding significant adverse environmental effects - effective integration of environmental considerations from the outset of deliberations that may lead to an undertaking with significant implications for sustainability - effective public engagement in assessments - precaution - explicit sustainability-based rules governing trade-offs, including mandatory open justification and prohibition of displacement of significant adverse effects to future generations • Integration of sustainability-based requirements throughout the Act (e.g. to require attention to enhancement as well as mitigation, and to require "contribution to sustainability" and "positive biophysical and socio-economic legacy" as the test for approvals and for decisions on "acceptable in the circumstances"	• The current purposes of CEAA are largely appropriate. The contribution to sustainability purpose in particular favours efficient integration of key considerations and provides an effective means of establishing higher standards in the conception and design of important undertakings. But the narrow mitigation focus of much of the Act is inconsistent with the purpose of contributions to sustainability: *address under point #3 re ambiguities* • Specification of sustainability-based decision criteria and associated expectations would also contribute to clarity and consistency: *address under*

	• Requirements for explicit application of sustainability based criteria for evaluations and decisions in the process, and open justification of proposed trade-offs • Design of federal assessment regime as a sustainability-focused national standard (see "harmonization" below)	*point #10 re consistency in process* • Ensuring the core requirements are clearly stated, appropriately comprehensive and non-negotiable would eliminate a major cause of delay in the process: *address under point #1 re inefficiencies and point #10 re consistency in process*
Consistent, comprehensive scope	• Definition of "environment" and "environmental effects" to include social, economic, cultural and ecological/biophysical factors and the interrelations, and to include attention to cumulative effects • Basic assessment process requirements to include - mandatory early announcement and consideration of purposes and the range of alternatives to be examined - attention to full lifecycle of alternatives and proposed undertakings - comparative evaluation of alternatives in light of sustainability-based criteria • Emphasis on use of strategic level assessments to address broad alternatives and cumulative effects • Inter- and multi-jurisdictional process cooperation or consolidation to ensure integrated attention across jurisdictional boundaries	• Adopting a clearer, broadly applicable conception of "environment" would clarify the agenda, facilitate integrated attention to the sustainability-centred purposes of the Act, be suitable for all cases of joint application with other jurisdictions and provide more consistency of expectations: *address under point #1 re inefficiencies and point #10 re consistency in process* • Clear and consistent application of the other requirements as non-negotiable basic components of assessments would similarly reduce delay from case-by-case negotiation: *also to be addressed under points #1 and #10.*
Clear, pre-defined	• Automatic coverage of all undertakings that may have significant implications for sustainability (including strategic level policies, programmes	• Providing a properly legislated foundation for strategic level

application to strategic and project levels	and plans as well as capital projects and physical activities) and fall within some federal area of jurisdiction • Use of strategic level assessments to address larger scale issues, guide applications at the project level and enhance overall process efficiency as well as effectiveness[3] • Emphasis on (groupings of) undertakings with potentially significant cumulative effects; application of cumulative effects focus for minor projects • Pre-identification of application rules and assessment scope to facilitate early initiation of assessment work (no late triggering; no negotiation of narrower scope) • Application rules centred on clear identification of assessment application requirements in all major categories of undertakings that can be anticipated, supplemented by special requirements (with process support for clarifications) for atypical cases (includes pre-defined application as a replacement for or supplement to the law list trigger)	assessments would ease burdens on proponents and other participants at the project level and permit more efficient and effective attention to cumulative effects: *address under point #1 re inefficiencies; should also reduce duplication of deliberations on strategic level issues in multiple project level assessments (point #2)* • General focus on cumulative effects should reduce inefficiencies (*point #1*) • Clear early application rules should eliminate a major cause of inefficiencies and should simplify processes (*points #1 and 9*) but are most central to triggering (*point # 6*)
Maintenance of clearly defined streams for major and minor undertakings	• Provision of multiple assessment streams (at the project and strategic levels) with more and less demanding requirements designed to match assessment rigour to the potential significance of potential effects • Particular focus in all streams on cumulative effects and identification of broad alternatives with more positive contributions to sustainability • Mechanisms for open and timely consideration of applications to bump-up an exceptionally significant or controversial case to more intensive review or	• CEAA already has multiple streams; particular streaming provisions relate to the triggering issue (*point # 6*) • Cumulative effects focus should enhance efficiencies generally and especially for small undertakings

[3] See Regulatory Advisory Committee, Strategic Environmental Assessment Subcommittee, *Interim Report,* June 2009. See also the more detailed background report, most of which was published as Robert B. Gibson, Hugh Benevides, Meinhard Doelle and Denis Kirchhoff, "Strengthening strategic environmental assessment in Canada: an evaluation of three basic options," *Journal of Environmental Law and Practice,* 20:3 (2010), pp.175-211.

	to bump-down an exceptionally benign or insignificant case to less intensive review • Maintenance of a consistent, broad basic scope (including attention to alternatives) and effective public engagement opportunities in all streams • Reliance, where appropriate, on consolidation of minor undertakings into classes for strategic assessments centred on identifying best options in light of cumulative effects and providing standard guidance for individual projects • Exemption of minor undertakings where consideration of environmental implications and sustainability contributions is already entrenched or otherwise credibly ensured • Provision of clear criteria for allocation to streams, including for decision making on what cases are addressed through public panel reviews	consolidated in classes: *address under points #1 re inefficiencies and #5 re small projects*
Good science and rigorous review	• A focus on cumulative and legacy effects • Recognition of interactions among factors in dynamic socio-ecological systems • Emphasis on making and monitoring specific, testable predictions and estimates of uncertainty • Use of multiple forms of carefully developed understanding, including traditional ecological knowledge • Greater emphasis on and support for effective engagement of relevant parties, including the public, from the outset in all assessments, especially where government in-house expertise is depleted.	• Recommendations on cumulative and legacy effects would address ambiguities and other inefficiencies (*points #1 and #3*) • Learning from monitoring would reduce inefficiency (wasted opportunity) and enhance predictability (*points #1 and #10*)
Decision criteria	• Overall goal: selection of option offering best promise of multiple, mutually-reinforcing, fairly-distributed and lasting benefits, while avoiding significant adverse effects, guided by evaluation and decision criteria section that set out	• Specification of decision criteria and associated expectations would also contribute to clarity and consistency: *address under point #10*

	- essential considerations for all judgments about sustainability effects - provisions for case- and context-specific elaboration of sustainability-based criteria - explicit rules for decisions on trade-offs	*re consistency in process*
Accountability	• Clear delineation and credible location of authority and responsibilities for assessments, reviews, decisions, monitoring and enforcement • Clear distinction between the obligations of proponents to integrate environmental and sustainability considerations into planning and decision making, and the responsibilities for impartial assessment review (only the former is acceptable as "self-assessment") • Open access to information and opening for public scrutiny and engagement from initiation of planning of all significant undertakings • Mandatory provision of explicit rationales for decisions in light of the legislated purposes	• Clarification of authority and responsibility would reduce ambiguities and should simplify the process: *address under points #3 and #9*
Process efficiency	• Establishment of standard application rules and requirements, and guidance for particular categories of undertakings, prior to planning of individual undertakings (no late triggering or extended scoping negotiations) • Allocation of categories of undertakings to more and less demanding assessment streams, with clear criteria for evaluating exceptions and exemptions • Use of law-based strategic environmental assessment to guide and streamline lower tier strategic and project assessments • Minimization of need for preparation of case-specific scoping guidance • Establishment of a best practice federal regime as the national standard	• All of these address inefficiencies (*point #1*)

	basis for upward harmonization of processes of federal, provincial and other jurisdictions • Authoritative (enforceable) decision for comprehensive integration of approval terms and conditions • Mandatory follow-up monitoring and reporting for learning from experience • Provisions for engaging citizens and other stakeholders, earlier and through the process, including in monitoring • Consolidation of federal environmental assessment application under CEAA (rather than proliferation of multiple processes)	
Public participation	• Recognition of public engagement as key to the effectiveness and credibility of environmental assessments • Public as well as technical notification and consultation at key points throughout the proposal development and assessment process as appropriate for different assessment streams but generally including - the initial identification of purposes and potential alternatives - the scoping of an assessment and the identification of valued system components - the selection of the preferred alternative; - the application for approval - implementation monitoring and adaptation • Support, including resources, for important participants who would not otherwise be able play an effective role in key steps through the process, including early deliberations and post-approval monitoring • Convenient and open access to assessment documentation • Public hearings on cases of particular public interest and significance for sustainabilit*y*.	• Effective early public engagement should reduce inefficiencies arising from later conflicts (*point #1*) • More emphasis on public knowledge, especially in monitoring and reporting may be a key substitute for limited and declining government capacities (*also point #1*)

Authoritative decisions	• Clear legislative authority for strategic and project level assessments • Enforceable decisions with terms and conditions of approvals • Provision for firm direction from strategic assessments to subsequent more specific undertakings • Specified enforcement powers and penalties	• Recommendations on these matters are chiefly concerned with efficiencies due to reduction of ambiguity, uncertainty and inconsistency in the process and its application (*points #1, #3 and #10*)
Administrative impartiality	• Arm's length central agency for - preparing application rules - reviewing requests for exceptions and exemptions - maintaining the public registry - monitoring implementation • Auditing by Commissioner for Environment and Sustainable Development	• Administrative impartiality should enhance predictability as well as credibility and the motivations associated with a process that is taken seriously: *address under point #10*
Harmonization with other Canadian jurisdictions (and through Canadian applications abroad)	• Design and use of a renewed CEAA as a national best practices standard in federal law, to establish a foundational sustainability-based approach with a consistent, firm, high standard for multijurisdictional application. • Emphasis on coordination with provincial, territorial and Aboriginal assessment regimes, with particular attention to early definition and application of joint requirements and upward harmonization upwards through consolidated processes • Inclusion of strategic as well as project level assessment collaboration • Emphasis on international collaboration and upwards harmonization especially through application to strategic and project level Canadian undertakings outside Canada (e.g. by CIDA)	• Upward harmonization through an exemplary high national standard should be the key recommended approach to the duplication concerns (*point #2*)
Linkages to	• Integration of legislated strategic level assessment process	• General expansion of sustainability-

other and broader sustainability commitments and initiatives	• Incentives for upward harmonization with strategic and project level processes of provinces and other jurisdictions • Provision for adoption of guidance from other equivalent strategic level processes	based expectations and practices throughout government and society is ultimately the best route to both effectiveness and efficiency – establishing a culture in which the desired approaches are habitual: *address under point #1*

Overall, the table shows that all of the major needs for improvement of federal environmental assessment law and practice can be addressed under the given directive areas for report drafting, even without reliance on the broad category of matters brought forward by proponents and other stakeholders. The points in the drafting instructions are evidently focused on efficiency objectives. Such a focus is open to the peril that efficiencies pursued without parallel attention to effectiveness objectives are likely to feature faster but less useful work. That seems to be the probable effect of the symptom-focused solutions, especially those that simply expand exemptions, download assessment responsibilities to the diverse inadequacies of provincial processes, permit more negotiable narrowing of scope and/or delegate assessment reviews to regulatory bodies ill equipped to address significant cumulative effects and broad alternatives. The more demanding approach sketched above is much more promising.