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Consultation on Bill C-12

An Act respecting transparency and accountability in
Canada's efforts to achieve net-zero greenhouse gas emissions by the year 2050

Brief

Quebec Environmental Law Centre

Submitted to the House of Commons Standing Committee on
Environment and Sustainable Development

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ABOUT THE QUEBEC ENVIRONMENTAL LAW CENTRE

The Quebec Environmental Law Centre / Centre québécois du droit de l'environnement (CQDE) is a charitable organization founded in 1989 by a group of jurists interested in the legal aspects of environmental issues. The CQDE has over 250 active individual and corporate members throughout Quebec.

The CQDE's mission is to use its legal expertise in the service of Quebec and environmental protection.

The CQDE plays an active role in Quebec society by getting involved in important environmental discussions. It participates in government consultations on a variety of legislative and regulatory reforms as well as before the courts when necessary.

Since its founding, the CQDE has been providing legal information to the public and environmental protection groups, enabling them to shed light on the legal dimensions of the environmental problems they face, with the aim of advocating for the right to a healthy environment.

It is the only non-profit organization to provide independent expertise in environmental law in Quebec, thereby providing the public with access to information and justice in matters of environmental law. By contributing to the implementation of legislation that addresses the environmental crises we face, the CQDE helps develop, disseminate and enforce environmental law in order to protect the environment and living species.

CQDE recommendations

Climate laws are powerful tools for guiding government action in the ecological transition and the fight against the climate crisis and biodiversity loss. Establishing a comprehensive legislative framework helps ensure coherent government action in response to the climate crisis; set predictable, gradual and ambitious objectives; and develop the actions undertaken, in terms of both adaptation and mitigation. Climate legislation also helps chart the course for addressing the climate crisis in a way that is built on a just transition perspective and that promotes the development of a low-carbon, sustainable and inclusive economy.

The proposals of the Quebec Environmental Law Centre / Centre québécois du droit de l'environnement (CQDE) are consistent with the idea that Canada must seize this opportunity to lay the solid foundations of ambitious and coherent climate governance, while respecting the shared jurisdiction between the various levels of government. Implementing a coherent, efficient climate governance structure would promote a fair and rapid ecological and energy transition. The CQDE's recommendations are based on an analysis of various climate laws adopted in several countries.¹

Given the need to make Bill C-12 a comprehensive and ambitious climate law, our recommendations focus on the following: ensuring the expertise and independence of the advisory body, ensuring genuine public participation, ensuring coherent government action through the implementation of a climate analysis, improving accountability, ensuring consistency with the Paris Agreement, and providing for federal carbon budgets.

1. Advisory body on climate change: make it an independent, qualified advisor that takes action on the climate crisis

Bill C-12 provides for the appointment of the members of the advisory body (up to 15) on the recommendation of the Minister of the Environment (clauses 20–21). It does not specify the member selection criteria. In addition, the bill does not provide for the body's advice to be made public, as it only requires annual reporting.

The following suggested improvements to the advisory body clauses would meet one of the objectives stated in the preamble to the bill, essentially to ensure that the best scientific information available is taken into account. To do this, the advisory body must have the necessary expertise: therefore, the CQDE recommends that it be composed primarily of scientists from a variety of fields who can provide advice on key aspects of addressing the climate crisis, including the setting of milestone targets and federal carbon budgets.

Recommendation 1: Establish an independent selection process

First, we propose that members of the advisory body be chosen by a selection committee. We suggest that this committee feature some degree of diversity. In particular, the committee

¹ A table summarizing the key points of this analysis is in Annex 2 of this brief.

should ensure that representatives of First Nations and Inuit communities are involved in the selection process.

To ensure that the process is depoliticized, we suggest that the members of the advisory body be appointed by Cabinet on the recommendation of the selection committee.

Recommendation 2: Include the selection criteria in the bill

Bill C-12 does not currently provide selection criteria to guide Cabinet and the selection committee in choosing advisory body members. It seems necessary to add such criteria in order to ensure the **advisory body's independence** and, more importantly, **expertise**. The overriding principle guiding the selection of members should be that of expertise. Most of the members should come from the scientific community. This is a practice adopted by many jurisdictions. Quebec has recently adopted this approach and established a climate change advisory panel made up of scientists with diverse and recognized expertise.

We also propose to specify the various fields of expertise that the members of the advisory body should possess. In particular, this body should include members with relevant scientific knowledge of climate change and biodiversity protection. It should also have members who can evaluate the impacts of the measures and actions adopted, particularly in the social sciences (e.g., environmental economics) and in public policy.

Recommendation 3: Include the terms of reference of the advisory body in the bill

Clause 20(2) states that the Minister of the Environment may determine and amend the terms of reference of the advisory body. The CQDE believes that **the advisory body's terms of reference should be set out in the bill and not be up to the Minister's discretion**. To that end, its terms of reference should be clarified and expanded. Certain matters should necessarily be analyzed by the advisory body before a decision is made by the government or the Minister, particularly with respect to the setting of milestone targets.

The bill should explicitly provide that the advisory body be consulted on setting targets for GHG emission reductions milestone years and on setting federal carbon budgets based on specified criteria. Government departments and agencies should also be able to call on the advisory body to provide advice on a range of climate-related issues, or the advisory body should be able to do so on its own initiative. This addition would be all the more rational since the CQDE proposes that all government decisions (legislative, regulatory, budgetary, fiscal) and investments (infrastructure projects, financial support programs, etc.) be subject to a climate analysis to ensure consistency in government decisions (see section 4). The advisory body should not be limited to being an advisor to the Minister of the Environment. It should guide all of government and the administration in the green transition and adaptation to climate change.

The advisory body must oversee government climate actions. Through its work, the advisory body must be able to evaluate the government's objectives, the action plans adopted and their potential or proven consequences, in order to carry out its terms of reference. Without a minimum of oversight of governmental climate actions, such as by evaluating objectives and action plans, the advisory body will not be able to give consistent advice that will result in

progress on addressing climate change. Effective climate action must take into account the government's overall action in that area. In particular, the advisory body should be able to comment on progress reports submitted by the Minister of the Environment under clause 14. Its oversight role should also involve preparing annual reports. This report should state to what extent its advice provided to the government and the administration are followed.

Recommendation 4: Advisory body advice should be made public within 30 days of being provided to the government, a minister or the administration

In its current form, Bill C-12 only requires the advisory body to file an annual report on its advice and activities (cl. 22(1)). The CQDE believes that this requirement is inadequate. **The work of the advisory body must be public and transparent** in order to encourage public participation and involvement and to strengthen accountability and oversight of government actions.

Therefore, the CQDE recommends that, in addition to having to report annually, the advisory body should make public any advice it issues within 30 days of its submission. The annual report should also be presented to Parliament and not to the Minister.

In the interests of efficiency, we encourage linking the work of the advisory body with that of the Commissioner of the Environment and Sustainable Development. Bill C-12 gives the Commissioner a specific mandate to assess the effectiveness of government action to mitigate climate change (cl. 24). The annual report that will be presented by the advisory body and the transparency of its work, such as releasing the advice it provides, have the potential to become important tools for guiding the Commissioner on the improvements to be made by the government in the area of climate.

2. Ensure accountability and transparency

Recommendation 5: Increase the frequency of reporting by the Commissioner of the Environment and Sustainable Development

The CQDE believes that the Commissioner's reports should be more frequent. A report at least once every five years seems insufficient given the rapid pace of climate change and its impacts on the population. There should be a report at least every two years.

Recommendation 6: Require the government and the Minister to justify decisions not to follow the advice of the advisory body

Clause 22(2) requires the Minister of the Environment to publicly respond to the advice in the advisory body's annual report. The CQDE recommends that the government and any minister who decides not to follow the advice of the advisory body be required to justify why. This amendment is recommended in order to **make government action more transparent**. It is also consistent with the previous recommendation to make any advisory body advice public within 30 days of it being sent to the requester. Improving transparency in the short term in order to engage the public and ensure government accountability appears paramount.

Recommendation 7: Hold the government accountable for meeting GHG emission reduction targets

The preamble to the bill states that the government is committed to achieving carbon neutrality by 2050. The CQDE recommends that the bill be more explicit in this regard and explicitly impose on the government the obligation to ensure that the greenhouse gas emission reduction targets are met. The government's responsibility to do so must be legally binding.

3. Enhance public participation

Recommendation 8: Ensure that the public is actively involved in addressing the climate crisis and is fully informed of government actions

Clause 13 pertains to public participation. However, this clause provides few concrete means to ensure real public participation in decisions that affect all spheres of society. The bill actually just allows the public to comment on the new GHG emission targets or emission reduction plans.

Public participation requires real access to information, public education on the issues, effective measures to consult various sectors of society, and meaningful consideration of the concerns expressed. Many international agreements that Canada has signed onto recognize the right to participate in the conduct of public affairs, the importance of access to information to ensure freedom of expression, and the importance of access to information to ensure environmental protection.² The Paris Agreement reiterates this principle in its Article 12 on "climate change education, training, public awareness, public participation and public access to information."

Bill C-12 must provide clear mechanisms for public awareness, training and education on the climate crisis, for effective consultation with various sectors of society in setting targets for the milestone years, and for informed and constructive participation in these consultations. The magnitude of the issues at stake makes it wholly inadequate to simply provide an "opportunity" to make submissions.

It is with this educational aspect in mind that the CQDE also proposes in Recommendation 4 to make the work of the advisory body more transparent and public. Given its multidisciplinary scientific expertise in the fight against the climate crisis, the advisory body must keep the public informed about the causes and consequences of climate change, as well as what can be done about it. This would enhance public access to climate information and public participation by allowing for more informed input on the actions being taken.

² *International Covenant on Civil and Political Rights*, December 16, 1966, arts. 19(2) and 25; *American Declaration of the Rights and Duties of Man*, April 30, 1948, arts. IV and XX; and the *Inter-American Democratic Charter*, September 11, 2001.

4. Ensure consistency and appropriateness of government actions - climate analysis

Recommendation 9: Mandate climate analysis for government decision-making

In order to respond to the climate emergency and biodiversity loss, the government must ensure that its actions are consistent and appropriate, whether they stem from a policy, action plan, directive, strategy, and so forth. **Mandating all government departments and agencies to conduct a climate analysis for each of the orientations and decisions adopted** (strategies, policies, programs, measures, directives, etc.) would ensure that its actions are consistent and coordinated.

This climate analysis would involve having the public service use an analysis grid to evaluate the impact of any legislative, regulatory, administrative, fiscal or budgetary decision. Climate analysis should also be required for government or public investment decisions or for any form of public financial support. Such an analysis could, for example, take into account the notion of life cycle and the impacts on environmental components.

The analysis grid should be incorporated into regulations or an order in council. We would like to see it included in one of these instruments to ensure ministerial accountability and transparency of the process when a decision is made (e.g., a policy adopted) despite significant potential climate change impacts (whether mitigation or adaptation). This approach would also promote an obligation of result rather than an obligation of means. We recommend that the first responsibility given to the advisory body be the development of the climate analysis grid, requiring that it be in place by June 1, 2022. Lastly, with the support of the advisory body, the analysis grid should be updated regularly in light of international commitments, developments in climate science and the experience gained through the implementation of the climate analysis.

Adding the requirement for a climate analysis has a cross-cutting objective: to strengthen the role of the advisory body to serve as a “climate advisor” to the whole of government, to ensure accountability and transparency of decisions, and to strengthen coherent climate governance across government. Tackling the climate and environmental crisis is not just the business of the Department of the Environment, but the business of government as a whole.

5. Ensure full compliance with the Paris Agreement

Recommendation 10: Ensure that the bill requires compliance with the standards and commitments in the Paris Agreement

Clause 4 states that one of the purposes of the bill is to require the setting of national targets for meeting Canada’s international commitments in respect of mitigating climate change. In keeping with this objective, the CQDE recommends that the bill make direct reference to the signature standards of the Paris Agreement. One of these standards is having nationally determined contributions (milestone targets) that reflect the highest possible ambition and are in accordance with best available science. The Paris Agreement also requires countries to take mitigation actions to meet the targets. This is, according to the text of the agreement, an

obligation of means. The text of the bill should therefore include **prescriptive benchmarks to set GHG emission reduction targets and provide for obligations of means**. Amendments are proposed in Annex 1. These proposed amendments use language that was carefully negotiated and agreed to by stakeholders in the Paris Agreement, including Canada.

Recommendation 11: Establish a milestone target as early as 2025, as set out in the Paris Agreement

The Paris Agreement requires countries to set greenhouse gas emission reduction targets (nationally determined contribution) for 2025. However, Bill C-12 fails to do so and the first milestone target is set at 2030. The CQDE recommends that **a target for 2025 be added** to fully comply with the Paris Agreement.

6. Provide for the adoption of carbon budgets

Recommendation 12: Ensure that the bill provides for the adoption of five-year carbon budgets, while respecting the sharing of jurisdictions and provincial autonomy

To ensure coherent climate governance and to be able to work in the short and medium term to meet greenhouse gas reduction targets, we recommend the adoption of federal carbon budgets. These carbon budgets could be used to establish greenhouse gas emission budgets for the various sectors of the economy.

Carbon budgets help set short-term climate targets and complement the milestone targets that set medium-term greenhouse gas emission reduction objectives. Governments usually set targets in a distant time frame that exceeds a decade (2030 or 2050). However, it is urgent and necessary to break down each target into shorter periods in order to facilitate tracking and to be able to revise the measures in place. By providing for targets with a regular timeframe, the gap between what is being done and what should be done will be much more measurable, which will help improve the greenhouse gas emission reduction plans proposed in clause 9.

To do this, it is necessary to define in the bill:

1. What a carbon budget is;
2. What criteria could be used for setting such a budget; and
3. What the time periods are for adopting and reviewing the carbon budget.

The CQDE proposes the adoption of five-year carbon budgets. Lastly, the advisory body should advise the government on the adoption of such budgets.

Proposed amendments are attached. It is time for action and consistency. The CQDE believes that what is needed is the implementation of true climate governance based on best practices and adapted to Canada's reality: the bill must be amended in order to become the foundation for climate action in Canada and to lay the groundwork for integrated climate governance in order to protect all Canadians.

Annex 1 – Proposed amendments

Proposed amendments are shown in red in the second column. Only the clauses for which amendments are proposed are listed.

Clause	Amendments - Proposed wording	Comments
Targets and Plans		
<p>7 (1) The Minister must set a national greenhouse gas emissions target for each milestone year with a view to achieving the target set out in section 6.</p> <p>Target — 2030</p> <p>(2) The Minister must set the national greenhouse gas emissions target for 2030 within six months of the day on which this Act comes into force.</p> <p>Extension</p> <p>(3) The Minister may, in a decision containing reasons and made available to the public, extend the time limit set out in subsection (2) by 90 days.</p> <p>Subsequent targets</p> <p>(4) The Minister must set each subsequent national greenhouse gas emissions target at least five years before the beginning of the milestone year to which it relates.</p>	<p>7 (1) The Minister must set a national greenhouse gas emissions target for each milestone year with a view to achieving the target set out in section 6. These targets must reflect the highest possible ambition and be in accordance with best available science.</p>	<p><i>Paris Agreement, Arts. 4(1) and (3)</i></p>
<p>Emissions reduction plan</p> <p>9 (1) The Minister must establish a greenhouse gas emissions reduction plan for achieving the target set by section 6 and each target set under section 7.</p> <p>Plan — 2030</p> <p>(2) The Minister must establish an emissions reduction plan for 2030 within six months after the day on which this Act comes into force.</p> <p>Extension</p> <p>(3) The Minister may, in a decision containing reasons and made available to the public, extend the time limit set out in subsection (2) by 90 days.</p> <p>Subsequent plans</p> <p>(4) The Minister must establish each subsequent emissions reduction plan at least five years before the</p>	<p>Emissions reduction plan</p> <p>9 (1) The Minister must establish a greenhouse gas emissions reduction plan for achieving the target set by section 6 and each target set under section 7. The Government of Canada must take all steps necessary to meet the objectives of each of the targets.</p>	<p><i>Paris Agreement, Art. 4(2)</i></p>

Consultation on Bill C-12

beginning of the year to which it relates.		
<p>Amendments</p> <p>11 The Minister may amend an emissions target set under section 7 or an emissions reduction plan in a manner that is consistent with the purpose of this Act.</p>	<p>Amendments</p> <p>11 The Minister may upwardly amend an emissions target set under section 7 or an emissions reduction plan in a manner that is consistent with the purpose of this Act.</p>	
<p>Other ministers</p> <p>12 When establishing or amending an emissions reduction plan, the Minister must do so in consultation with the other federal ministers having duties and functions relating to the measures that may be taken to achieve that target.</p>	<p>Other ministers</p> <p>12 When establishing or amending an emissions reduction plan, the Minister must do so in consultation with the advisory body and the other federal ministers having duties and functions relating to the measures that may be taken to achieve that target.</p>	
<p>Public participation</p> <p>13 When setting or amending a national greenhouse gas emissions target or establishing or amending an emissions reduction plan, the Minister must, in the manner the Minister considers it appropriate, provide the governments of the provinces, Indigenous peoples of Canada, the advisory body established under section 20 and interested persons, including any expert the Minister considers appropriate to consult, with the opportunity to make submissions.</p>	<p>Public participation</p> <p>13 When setting or amending a national greenhouse gas emissions target or establishing or amending an emissions reduction plan, the Minister must, in the manner the Minister considers it appropriate, provide the governments of the provinces, Indigenous peoples of Canada, the advisory body established under section 20 and all interested persons, including any expert the Minister considers appropriate to consult, with the opportunity to make submissions.</p> <p>The Minister must ensure meaningful public participation in decision making.</p>	<p>The advisory body should have more than just the opportunity to make submissions to the Minister on setting or amending a national GHG emissions target. The Minister should be required to consult the advisory body.</p> <p>The Minister must ensure meaningful public participation. This must go beyond simply receiving submissions.</p>
	<p>13.1 Consultation with the provinces</p> <p>In establishing or amending the national greenhouse gas emissions target or in preparing or amending the emissions reduction plan and carbon budgets, the Minister must encourage, to the extent possible, concerted action with each province.</p>	<p>Add a clause specifying the consultation required with the provinces to address the climate crisis. The language used is based on federal legislation, particularly the <i>Emergencies Act</i>.</p>
Reports		
<p>Progress report</p> <p>14 (1) In consultation with the ministers referred to in section 12, the Minister must prepare at least one progress report relating to each milestone year and to 2050 no later than two years before the beginning of the relevant year.</p> <p>Content of report</p> <p>(2) A progress report must contain</p>	<p>Progress report</p> <p>14 (1) In consultation with the ministers referred to in section 12, the Minister must prepare at least one progress report relating to each milestone year and to 2050 no later than two years before the beginning of the relevant year. In 2024, the Minister must also prepare a progress report for the 2030 target.</p>	<p><i>Paris Agreement</i>, Art. 4(9)</p>

Consultation on Bill C-12

<p>(a) an update on the progress that has been made towards achieving the greenhouse gas emissions target;</p> <p>(b) an update on the implementation of the federal measures, sectoral strategies and federal government operations strategies described in the relevant emissions reduction plan; and</p> <p>(c) any other information that the Minister considers appropriate, including information on any additional measures that could be taken to increase the probability of achieving the plan's greenhouse gas emissions target.</p>		
Advisory Body		
<p>Establishment and mandate</p> <p>20 (1) There is established an advisory body whose mandate is to provide the Minister with advice with respect to achieving net-zero emissions by 2050, including advice respecting measures and sectoral strategies that the Government of Canada could implement to achieve a greenhouse gas emissions target, and any matter referred to it by the Minister, and to conduct engagement activities related to achieving net-zero emissions.</p> <p>Terms of reference</p> <p>(2) The Minister may determine and amend the terms of reference of the advisory body.</p>	<p>20 (1) There is established an advisory body whose mandate is to provide the Minister, at the request of the Minister or on its own initiative, with advice with respect to achieving net-zero emissions by 2050, including advice respecting measures and sectoral strategies that the Government of Canada could implement to achieve a greenhouse gas emissions target, and any matter referred to it by the Minister, and to conduct engagement activities related to achieving net-zero emissions. The advisory body shall act in the interests of accountability, transparency and continuous improvement, taking into account the evolution of scientific and technological knowledge in this area. The advisory body shall be created to facilitate the incorporation of science into administrative and legislative processes.</p> <p>Terms of reference</p> <p>(2) The advisory body shall</p> <p>(a) advise the Minister on the setting of the greenhouse gas emission reduction target for the year 2050 and intermediate targets;</p> <p>(b) advise the Minister on the setting of carbon budgets, in particular to determine the distribution of effort between domestic reductions and the purchase of international credits;</p> <p>(c) advise on the impacts of climate change and related measures on the most vulnerable populations, on Inuit populations and on First Nations; and</p> <p>(d) produce, at the request of government departments and agencies or on its own initiative, any</p>	<p>Specify the advisory body's terms of reference in the bill.</p>

Consultation on Bill C-12

	<p>advice or analysis to government authorities in relation to progress towards greenhouse gas emission reduction targets and the measures to achieve them, adaptation to climate change, any proposed limits in relation to the carbon market, the preparation of statistics related to greenhouse gas emissions or any other subject related to climate change.</p> <p>Public participation</p> <p>(4) In carrying out its mandate, the advisory body shall, where appropriate, consult the public and government authorities.</p>	
<p>Appointment and remuneration of members</p> <p>21 (1) The Governor in Council appoints the members of the advisory body on the recommendation of the Minister and fixes their remuneration.</p> <p>Composition of body</p> <p>(2) The advisory body is composed of no more than fifteen members, who are appointed on a part-time basis for a renewable term of up to three years.</p> <p>Co-chairs</p> <p>(3) The Governor in Council, on the recommendation of the minister, designates two co-chairs from among the members appointed under subsection (1).</p> <p>Reimbursement of expenses</p> <p>(4) The members are entitled to be reimbursed, in accordance with Treasury Board directives, for the travel, living and other expenses incurred in connection with their work for the advisory body while absent from their ordinary place of residence.</p> <p>Deemed employment</p> <p>(5) Members of the advisory body are deemed to be employed in the federal public administration for the purposes of the <i>Government Employees Compensation Act</i> and any regulations made under section 9 of the <i>Aeronautics Act</i>.</p>	<p>Appointment and remuneration of members</p> <p>21 (1) Based on the recommendation of the selection committee, the Governor in Council appoints the members of the advisory body on the recommendation of the Minister and fixes their remuneration.</p> <p>Criteria for selection</p> <p>(2) Members shall be independent and free from any relationship or interest that may interfere with the achievement of the terms of reference of the advisory body.</p> <p>Scientific expertise</p> <p>(3) Members must collectively have significant, multidisciplinary expertise and experience in</p> <p>(a) the fight against climate change, both mitigation and adaptation;</p> <p>(b) climate science or any relevant environmental science;</p> <p>(c) economics, finance and carbon pricing mechanisms;</p> <p>(d) public policy, including climate policy and its implementation;</p> <p>(e) social sciences, including the distributional effects of climate change</p> <p>(f) the energy transition; and</p> <p>(g) understanding the particularities of the regions of Quebec and the specific impacts of climate change on them, particularly in Inuit and First Nations communities.</p> <p>The majority of the members of the advisory committee must come from the scientific community.</p>	<p>Provide selection criteria to ensure the independence and competence of the scientific body. The committee should be composed mostly of scientists.</p>

Consultation on Bill C-12

	<p>Composition of body</p> <p>(2) The advisory body is composed of no more than fifteen members, who are appointed on a part-time basis for a renewable term of up to three years.</p> <p>[the rest of the clause remains unchanged]</p>	
<p>Report</p> <p>22 (1) The advisory body must submit an annual report to the Minister with respect to its advice and activities.</p> <p>Minister's response</p> <p>(2) The Minister must publicly respond to the advice that the advisory body includes in its annual report with respect to measures and sectoral strategies that the Government of Canada could implement to achieve the greenhouse gas emissions target.</p>	<p>Report</p> <p>22 (1) The advisory body must submit an annual report to the Minister Parliament with respect to its advice and activities.</p> <p>Publication of advice</p> <p>(1.1) The advisory body must make its advice to the government, minister or public body public 30 days after providing it.</p> <p>Minister's response</p> <p>(2) The Minister must publicly respond to the advice that the advisory body includes in its annual report with respect to measures and sectoral strategies that the Government of Canada could implement to achieve the greenhouse gas emissions target. Any government, minister or advisory body that fails to follow any advice or opinion provided by the advisory committee must publicly justify that decision within a reasonable time.</p>	
Commissioner of the Environment and Sustainable Development		
<p>Commissioner's report</p> <p>24 (1) The Commissioner of the Environment and Sustainable Development must, at least once every five years, examine and report on the Government of Canada's implementation of the measures aimed at mitigating climate change, including those undertaken to achieve its most recent greenhouse gas emissions target as identified in the relevant assessment report.</p> <p>Recommendations</p> <p>(2) The report may include recommendations related to improving the effectiveness of the Government of Canada's implementation of the measures with respect to climate change mitigation that it has committed to undertake in an emissions reduction plan.</p> <p>Submission</p>	<p>Commissioner's report</p> <p>24 (1) The Commissioner of the Environment and Sustainable Development must, at least once every five two years, examine and report on the Government of Canada's implementation of the measures aimed at mitigating climate change, including those undertaken to achieve its most recent greenhouse gas emissions target as identified in the relevant assessment report.</p>	

Consultation on Bill C-12

(3) The report is submitted as part of the next annual report the Commissioner makes under subsection 23(2) of the <i>Auditor General Act</i> .		
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Annex 2 - Comparison of “climate legislation” adopted in different jurisdictions

In this analysis, the CQDE has compared different “climate acts” in order to identify the essential elements that should be included in such an act. By climate legislation we mean any piece of legislation whose goal is to combat the climate crisis.³ More specifically, as Soccorio and Raine put it, climate acts:

... create legally binding obligations to set national greenhouse gas emissions reduction targets and define the process for setting these targets; create coordination mechanisms or oversight bodies to bring together and clarify accountabilities across government; lay down obligations to “mainstream” climate change into national and sub-national policies and plans; commit a national government to develop time-sensitive national climate change policies; create specialised funds and budgets; help coordinate and facilitate monitoring and reporting obligations; and integrate important environmental democracy elements, such as rights of public participation, access to information, and access to justice provisions as outlined in Principle 10 of the Rio Declaration.⁴

To that end, climate acts must include certain elements. Consulting the legislation adopted in different jurisdictions has allowed us to identify the following essential elements:

- **Advisory committee or body:** the establishment of an independent, competent and properly equipped advisory committee to orient government efforts to combat the climate and ecological crisis and monitor the consistency of the actions taken.
- **Transparency and accountability:** the Government, through the Minister of the Environment, must inform the public of the successes and failures in the fight against climate change and must be accountable to the public. The establishment of an advisory committee that issues public notices encourages this accountability. Accountability mechanisms also allow greater public involvement and greater access to environmental justice.
- **The establishment of GHG emissions reduction targets:** GHG emissions reductions targets are established by either an order or an act. In general, the most consistent legislation requires the establishment of targets through an act.
- **Ensure integrated transversal consideration of the climate emergency within the machinery of government:** climate legislation is not solely the responsibility of the Department of the Environment; the goal of climate legislation is to ensure a consistent and systematic consideration of the impact on the climate crisis of all decisions taken by the State. Thus, policies, action plans, orientations and other administrative, regulatory

³ Maria Socorro Manguiat and Andy Raine, “Strengthening National Legal Frameworks to Implement the Paris Agreement,” 2018 CCLR 15, p. 16.

⁴ Ibid.

and legislative documents must be drafted so as to take account of the climate crisis and its consequences. This is particularly true of decisions in the sphere of economics.

In the following table, when relevant, the presence of these elements in certain climate legislation adopted in different jurisdictions is briefly indicated. The CQDE has also highlighted provisions relating to adapting to climate change, since the Bill should pay more attention to this aspect.

Here is a list of the legislation consulted for this analysis:

- BRITISH COLUMBIA, *Climate Change Accountability Act*, http://www.bclaws.ca/civix/document/id/complete/statreg/07042_01
- UNITED KINGDOM, *Climate Change Act 2008*, http://www.legislation.gov.uk/ukpga/2008/27/pdfs/ukpga_20080027_en.pdf
- Scotland (2009). *Climate Change (Scotland) Act 2009*, http://www.legislation.gov.uk/asp/2009/12/pdfs/asp_20090012_en.pdf
- PARLIAMENTARY COUNSEL OFFICE OF NEW ZEALAND, *Climate Change Response (Zero Carbon) Amendment Bill*, <http://www.legislation.govt.nz/bill/government/2019/0136/latest/LMS183848.html>
- PARLAMENT DE CATALUNYA, *Climate Change Law*, https://canviclimatic.gencat.cat/web/.content/03_AMBITS/Llei_cc/docs/Climate-change-law_en.pdf
- SVERIGES RIKSDAG, *Climate Act*, <http://www.lse.ac.uk/GranthamInstitute/wpcontent/uploads/laws/8273.pdf>
- GOVERNMENT OF NORWAY, *Climate Change Act*, <https://www.regjeringen.no/en/dokumenter/climate-change-act/id2593351/>
- GOVERNMENT OF DENMARK, *Lov om Klimarådet, klimapolitisk redegørelse og fastsættelse af nationale klimamålsætninger* (in Danish only), <http://www.lse.ac.uk/GranthamInstitute/wp-content/uploads/laws/1151.pdf>
- MINISTRY OF ENVIRONMENT OF FINLAND, *Climate Change Act*, https://www.ym.fi/en-US/The_environment/Legislation_and_instructions/Climate_change_legislation.

Consultation on Bill C-12

Jurisdiction Legislation Coming into force	Objectives/orientations of legislation	Accountability mechanisms	Advisory committee	Adaptation to climate change	Main provisions
<p>British Columbia</p> <p><i>Climate Change Accountability Act</i> (link to Act)</p> <p>First version in force on April 1, 2008.</p> <p>Major amendments to the Act in 2019. Most of the amended provisions to come into effect on December 31, 2020.</p> <p>List of coming into force.</p>	<ul style="list-style-type: none"> - Ensure greater accountability of efforts to combat climate change. - Transparency of actions <p>Establishment of detailed specific objectives to guide efforts to combat climate change</p>	<p>S. 4.3: Minister's report on</p> <ul style="list-style-type: none"> - Annual GHG emissions - Actions undertaken to combat climate change (emissions reduction and adaptation) - Proposed actions for the future, and associated budgets - Every 5 years, determination of risks associated with climate change. <p>The Minister's reports are tabled in the National Assembly.</p> <p>S. 7.1, Each year, the Minister must prepare a climate change accountability report on GHG emissions in the public sector that describes:</p> <ul style="list-style-type: none"> - The actions undertaken by public-sector organizations to 	<p>S. 2 and ff.</p> <p>Role: to advise the Minister on, among other things, GHG reduction plans, sustainable economic development opportunities, effects of efforts to combat climate change on public and businesses.</p> <p>Number: maximum of 20 members</p> <p>Members: representative, i.e., 1 representative of identified groups, including industry, unions, women, Indigenous people</p> <p>Term of office: maximum of 6 years</p>	<p>S. 4.3: Minister's report on climate change adaptation efforts</p>	<p>S. 2(1) Establishment of 2030, 2040 and 2050 GHG emissions reduction targets in Act.</p> <p>S. 2(4): Sectoral GHG emissions reduction targets</p> <p>S. 2(4)(b): Review of sectoral targets every 5 years</p> <p>S. 4.2: Establishment of advisory committee: role, membership, number of members, term of office</p> <p>S. 5: Carbon neutral public sector. All public sector bodies to have been carbon neutral since 2010.</p>

Consultation on Bill C-12

		<p>reduce GHG emissions and the plan to continue reducing these emissions.</p> <p>- A determination of the emissions by the public sector during the period.</p> <p>The emissions in questions are only those produced by the provincial public sector.</p>			
<p>United Kingdom</p> <p><i>Climate Change Act 2008</i></p> <p>Coming into force: November 26, 2008</p> <p>Link to the Act</p>	<p>The Act's objective set out in the preamble include, but are not limited to:</p> <ul style="list-style-type: none"> - Setting a GHG emissions reduction target for 2050 - Establishing a carbon budget system - Establishing a climate change advisory committee - Establishing market-based processes to encourage economic sectors to reduce their emissions - Establishing economic incentives for reducing waste and increasing recycling 	<p>The Committee must publish its reasoned opinions.</p> <p>S. 36: The Committee must report to Parliament on the progress in</p> <p>(1) achieving the carbon budget</p> <p>(2) achieving the 2050 zero-emissions target.</p> <p>The Minister consults the Committee on these matters.</p> <p>The Committee provides advice to public-sector organizations that request it.</p>	<p>S. 32 Committee on Climate Change</p> <p>S. 33 and ff: Primary duty is to advise the Secretary of State on the matters set out in the Act:</p> <ul style="list-style-type: none"> - if the 2050 objective should be modified - the carbon budget for each budget period and the means for respecting the carbon budget: through a net overall reduction in GHG or through the use of carbon units - the Secretary of State must consider this advice 	<p>Part 4</p> <p>The Secretary of State must report to Parliament on the risks related to climate change. The Committee advises the Secretary of State on the preparation of this report.</p> <p><i>Programme for adaptation to climate change:</i></p> <p>The Secretary of State must establish this program in order to set objectives for adaptation to climate change, propose public policies to attain these</p>	<p>S. 1: 2050 reduction target</p> <p>S. 4 and ff: Carbon budget</p> <p>S. 52 and ff: Adaptation to climate change and identification of environmental impacts.</p> <p>Sectoral measures to reduce the impact of climate change, including with respect to the production and consumption of energy.</p>

Consultation on Bill C-12

			<p>- international trade emissions (aviation and navigation)</p> <p>- the inclusion of additional GHG in the objectives.</p> <p>The Committee members must be impartial and objective and must avoid conflicts of interest.</p> <p>Selection: The Chair is appointed by the national authorities and is then consulted on all other appointments.</p> <p>Members: The Committee consists of experts in climate change, science, economics, psychology and business.</p> <p>Number of members: a chair and 5 to 8 regular members</p> <p>Term of office: Established when member appointed.</p>	objectives and establish a schedule.	
Scotland	An Act of the Scottish Parliament to set a target	S. 2(8): The Minister must present to the	S. 24 and ff.	Part 5, s. 53 and ff.	S. 1: Establishment of 2050 target

Consultation on Bill C-12

<p><i>Climate Change (Scotland) Act 2009</i></p> <p>[link to the Act]</p> <p>Coming into force: August 4, 2009</p>	<p>for the year 2050, an interim target for the year 2020, and to provide for annual targets, for the reduction of greenhouse gas emissions; to provide about the giving of advice to the Scottish Ministers relating to climate change; to confer power on Ministers to impose climate change duties on public bodies; to make further provision about mitigation of and adaptation to climate change; to make provision about energy efficiency, including provision enabling council tax discounts; to make provision about the reduction and recycling of waste; and for connected purposes.</p>	<p>Scottish Parliament a bill to review the 2020 interim target. If no changes are made, the Minister must provide the reasons for that decision to the Scottish Parliament.</p> <p>The notice of the authority consulted concerning the review of the interim target must be made public.</p> <p>Part 3, s. 33 and ff: The Minister must submit to Parliament various reports on:</p> <ul style="list-style-type: none"> - attaining the GHG reduction targets - setting the GHG reduction targets - public policies and actions proposed to attain the annual targets - failure to attain a target and proposals for actions to attain those targets. 	<p>The Government may, by order, establish an advisory committee to act in accordance with legislative requirements.</p> <p>If no order is made, the UK Committee on Climate Change acts as advisor (s. 5(7)(b))</p> <p>To date, no order has been made and the Scottish Committee on Climate Change has not been set up.</p> <p>The UK committee thus serves as the advisor for the establishment and modification of GHG reduction targets. The Minister may also require the committee's advice on certain subjects set out in ss. 27-32 of the Act, including the progress made in combatting climate change.</p> <p>The committee structure is set out in the UK Act.</p>	<p>S. 53: The Government must establish policies for climate change adaptation, public policies to attain those objectives, means to involve economic actors, and mechanisms to ensure public-sector involvement in attaining those objectives. A programme providing for these elements must be presented to Parliament.</p> <p>The government must account for the progress made and actions taken toward adaptation.</p>	<p>S. 2: Establishment of 2020 interim target</p> <p>Obligation to review the target so it is as ambitious as possible, in line with the committee's advice and based on specific criteria, including scientific knowledge, technology, the economy, the environment and international agreements. The target can only be increased.</p> <p>S 3: Establishment of annual targets for 2010-2050 based on the criteria set out in the Act.</p>
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Consultation on Bill C-12

<p>New Zealand</p> <p>Climate Change Response (Zero Carbon) Amendment Bill</p> <p>November 13, 2019</p> <p>Link to Act</p>		<p>The Minister must justify their decision not to follow the Commission's recommendations,</p> <p>5JZ(2): if the 2050 GHG emissions target is not met, the courts may make a declaration to that effect.</p> <p>5ZS: the Minister must make public progress reports on climate change adaptation (implementation of national climate change adaptation plan).</p>	<p>Role s. 5B: Give the Government independent advice on attenuating and adapting to climate change, including on the establishment and review of GHG emissions reduction targets and carbon budgets, and monitor the progress toward attaining GHG emissions reduction targets and adaptation objectives.</p> <p>Commission reports are made public and submitted to Parliament (s. 5KA).</p> <p>Number: 7 members.</p> <p>Members s. 5H: Commission members must collectively have experience or significant knowledge in certain areas, including climate science, public policy and (pure and social) sciences.</p>	<p>5ZM: National assessment of climate-change related risks</p> <ul style="list-style-type: none"> - Assess current and future climate-change related risks for target sectors - Identify the most significant risks over a 6-year period <p>5ZN: The Commission must prepare a national climate change risk assessment for a 6-year period and make the assessment public. The Minister of the Environment must make the first evaluation public.</p> <p>5ZQ: National climate change adaptation plan. In conjunction with the risk assessment, the Minister must prepare a national plan that includes the Government's adaptation objectives, the strategies, policies</p>	<p>S. 5O: 2050 GHG emissions reduction target</p> <p>S. 55 and ff.: Carbon budget</p> <p>The Minister must establish a carbon budget for each identified period. The Minister must do so based on the identified elements and the Commission's advice.</p>
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Consultation on Bill C-12

			<p>Selection s. 5E, 5F, 5G: by an appointment committee</p> <p>Term of office: recommendation of the Minister to ensure that not more than two members are leaving the Commission at the same time.</p>	and actions proposed to attain those objectives and a timeline and indicators of success.	
<p>Catalonia</p> <p><i>Climate Change Law</i></p> <p>Coming into force: 2019</p> <p>Link to Law</p>	<p>Art. 2, list of the Law's objectives, including</p> <ul style="list-style-type: none"> - Reduce GHG emissions by 40% by 2030, 65% by 2040 and 100% by 2050 from 1990 levels - Ensure energy transition - Involve all of society in combatting climate change - Reduce the vulnerability of the public and economic sectors 	<p>According to the Climate Change Group, Catalonia has been transparent about the efforts to combat climate change:</p> <p>"Catalonia has been at the forefront of transparent climate action, agreeing to voluntarily disclose its emissions and ambitious climate targets on an annual basis since 2014 as part of The Climate Group and CDP's Annual Disclosure initiative with states and regions."</p> <p>The Government must present a report to</p>	<p>Totally independent committee, governed by the principle of <u>total functional autonomy</u>, established under Article 32 (Committee of Experts on Climate Change). The Committee provides the government with recommendations on the adoption of carbon budgets and submits an annual report to the government (<u>which must take account of the recommendations and incorporate them into its policies or justify its decision not to do so before Parliament</u>).</p>	<p>Chapter II, Art. 9 ff.:</p> <p>Art. 9: The Minister of the Environment must prepare a strategic reference framework for adaption to climate change in cooperation with the other departments and stakeholders involved. The Government adopts the strategy on the recommendation of the Interdepartmental Commission on Climate Change.</p> <p>Art. 11: the establishment of sectoral planning instruments for adaptation to climate change.</p>	<p>Art. 3: This article sets out the principles of action that must be applied when choosing and creating the government's climate actions.</p> <p>Art. 7: Carbon budgets established for five-year periods. Carbon budgets are approved by Parliament. In addition to indicating the possible GHG emissions level for a period, the carbon budgets specify allowable emissions for specific sectors.</p>

Consultation on Bill C-12

		<p>Parliament each year on the implementation of the strategic reference framework for mitigation and adopt a new one every five years.</p> <p>Art. 8, Transparency: The Minister of the Environment must produce an Inventory of Atmospheric Emissions and CO₂, updated annually and available to the public. The Minister also has five years to produce a carbon footprint for Catalonia, taking into consideration its emissions (based on the Inventory) and its exports/imports.</p>			
<p>Denmark</p> <p><i>Climate Act</i></p> <p>Agreement on the Climate Act renewed on December 6, 2019</p> <p>Link to the Act</p>	<p>The goal of the Act is to establish a global strategic framework for Denmark's climate policy in order to achieve a carbon neutral society by 2050, i.e., an energy-efficient society with a supply based on renewable energy and markedly reduced greenhouse gas emissions</p>	<p>Art. 1: The Danish Parliament must report on the status, orientation and progress of the implementation of Denmark's climate policy.</p> <p>The Government must report to Parliament on</p>	<p>Art. 1: The Council on Climate Change is an independent body composed of experts whose goal is to provide independent advice on Denmark's transition to carbon neutrality.</p>		<p>Preamble: The Act establishes sub-objectives for every five-year period, set 10 years beforehand. These objectives are based on science, the carbon neutrality objective and compliance with the Paris Agreement (1.5°C</p>

Consultation on Bill C-12

	<p>from other sectors that also support growth and development.</p> <p>Denmark wants to position itself as a global leader. “Climate changes are global. Thus, Denmark must be a pioneer in international climate efforts so that we can inspire and influence the rest of the world.”</p> <p>The Act also envisions an equitable transition.</p>	the efforts to combat climate change.	<p>Art. 2, par. 4: Each year, the Council must provide recommendations to the Minister of Climate, Energy and Utilities.</p> <p>Selection: Council members are chosen by the current members (self-elected).</p>		<p>objective). The Climate Council must be consulted before the interim objectives are set.</p> <p>Sectoral GHG emissions reduction objectives, including for the agricultural, transport, energy and building sectors and for industries.</p> <p>The climate plan must provide measures to involve the public, businesses and civil society.</p>
<p>Sweden</p> <p><i>Climate Act</i></p> <p>Sweden’s Climate Act is part of a larger structure: the Swedish climate policy framework</p> <p>January 1, 2018</p> <p>Link to the Act</p>	The main goal of the Swedish climate policy framework is to achieve zero net GHG emissions by 2045.	Each year, the Government must provide a rationale for its budget choices related to combating CC (budget act = supported by a climate report)	The Climate Policy Council is an independent council of academic experts whose mandate is to evaluate the government’s long-term policies in relation to Sweden’s long-term objectives with respect to combatting climate change.		
Norway	Promote the implementation of climate	S. 5: Based on the best available scientific	No specific mention in the Act.	No specific mention in the Act.	Ss. 3 and 4: Establishment of GHG

Consultation on Bill C-12

<p><i>Climate Change Act – Act relating to Norway’s climate targets</i></p> <p>Coming into Force: January 1, 2018</p> <p>Link to the Act</p>	<p>targets as part of the process of transforming into a low carbon-emissions society by 2050.</p> <p>Encourage transparency and public debate on the orientations and progress of efforts to combat climate change.</p>	<p>knowledge, the Government must review its reduction targets every five years to ensure that they are as quantitative and measurable as possible.</p> <p>S. 6: The Government must take account, in its annual budget proposal, of how it will respect its climate targets and the proposed budget’s effect on GHG (s. 6).</p> <p>In both cases, it must report to Parliament every year on the measures under way.</p>			<p>emissions reduction targets for 2030 and 2050.</p> <p>S. 5: Provide interim targets every five years to ensure the reduction target set for 2050 is attained.</p> <p>S. 6: The State budget must be submitted to a climate analysis. The budget must be accompanied by a report on its projected effects on the climate.</p>
<p>Finland</p> <p><i>Climate Change Act</i></p> <p>June 1, 2015</p> <p>Reform slated for 2020 to make the Act more restrictive</p> <p>Link to the Act</p>	<p>Objectives of the Act:</p> <p>1) To establish a planning framework for Finland’s climate change policy and the follow-up on its implementation.</p> <p>2) To reinforce and coordinate state authorities’ efforts to plan measures to attenuate and adapt to climate change and to follow up on the</p>		<p>Finland’s Climate Panel S. 16</p> <p>Role: To collect and detail research data on climate change attenuation and adaptation measures for climate change policy planning and follow-up.</p> <p>Selection: By the Government.</p>	<p>S. 8: Adaptation planning</p> <p>(1) The Government approves the national climate change adaptation plan at least once every 10 years.</p> <p>(2) The adaptation plan includes a review of risks and vulnerability as well as action plans for the specific adaptation of each</p>	<p>Greenhouse gas emissions reduction objective of at least 80% from 1990 levels by 2050.</p> <p>Planning system for administrative emissions reductions efforts in sectors outside the emissions quota exchange system and follow-up on</p>

Consultation on Bill C-12

	<p>implementation of these measures.</p> <p>3) To reinforce opportunities for Parliament and the public to participate in the planning and amendment of Finland's climate change policy.</p>		<p>Composition: various scientific disciplines are represented</p> <p>Term of office: a set period of time not determined in the law.</p>	<p>administrative branch, if necessary.</p>	<p>implementation of plans.</p> <p>Distribution of tasks for authorities' efforts in accordance with the Act.</p> <p>Reinforcement of Parliament's role and possibilities for public participation in the development of climate change policy.</p>
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