Draft Consultation Policy for Sustainable Forest Development and Forest Management Orientations

Ministère des Forêts, de la Faune et des Parcs

CONSULTATION DOCUMENT

ENSEMBLE on fait avancer le Québec
MESSAGE FROM THE MINISTER

The social acceptability of projects involving Québec’s forests has become the driving force behind the efforts made by the Ministère des Forêts, de la Faune et des Parcs (MFFP) to obtain public support for the choices it must make in the interests of society. When the issues at stake are important to the province’s forests, public consultations offer a means of gauging the population’s opinion of a project’s social acceptability and using local knowledge in order to make improvements.

The Consultation Policy for Sustainable Forest Development and Forest Management Orientations is based on the principles of openness, accessibility, transparency, flexibility, respect and user-friendliness. Its aim is to provide opportunities for the general public, their representatives and interest groups to influence forest development and management. The Policy will serve as a guide for public consultations, and also for the separate consultations that must be organized for Aboriginal communities under the terms of the forest regime and the Sustainable Forest Development Act. It sets out the ground rules for consultations on integrated forest management plans and for the operations of the Forestry Partners Panel, composed of representatives from the main national organizations concerned by forest management and development issues.

I am delighted to invite you to take part in the consultations on the Policy. The recommendations and comments made will fuel future work on the Policy. The aim is clear: to allow the general public and Aboriginal nations to contribute to the development of our forests, so that we can all take pride and satisfaction in the MFFP’s management of Québec’s public forest heritage.

I hope you will find the process interesting!

Luc Blanchette
Minister of Forests, Wildlife and Parks
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HOW TO TAKE PART IN THE CONSULTATION

Public consultations are a fundamental element of the sustainable forest development process. They allow the population to express its opinions and concerns about the development and management of forests and forest resources. The MFFP uses the consultation process to make sure its decisions reflect the values and needs of individual citizens and local and Aboriginal communities.

Consultations on the Consultation Policy for Sustainable Forest Development and Forest Management Orientations will take place from April 3, 2017 to May 26, 2017. They will be used by the MFFP to fulfill its obligation to consult the general public and Aboriginal communities before publishing the Policy. By expressing your views, you will help us to identify the principles and conditions applicable to future forestry consultations.

Full information on the consultation process can be found at: mffp.gouv.qc.ca/english/forest/consultation-policy.jsp. The website also presents an additional information and summary document, along with instructions on how to submit your opinions:

On an electronic form, which is available on the consultation website.

By preparing a written opinion or brief and sending it by e-mail to consultation-politique@mffp.gouv.qc.ca or by regular mail to:

Consultation – Consultation Policy
Ministère des Forêts, de la Faune et des Parcs
Office of the Associate Deputy Minister, Forests
5700, 4e Avenue Ouest, A-405
Québec City (Québec) G1H 6R1

If you have questions about the consultation, you may contact a resource person by e-mail (consultation-politique@mffp.gouv.qc.ca) or by telephone, using our toll-free line 1 844 LAFORET (1 844 523-6738).

A participant satisfaction form, which we invite you to complete, is also available at mffp.gouv.qc.ca/english/forest/consultation-policy.jsp. Your comments on your experience as a participant in the consultation will help us to improve the process in the future. The results of the satisfaction survey will be published on the website at a later date.

We hope you find the consultations interesting!
In Québec, the public forest is under collective ownership, and the Ministère des Forêts, de la Faune et des Parcs (MFFP) has been entrusted with the task of managing it. To ensure that this is done in the collective interest, the Minister must establish a forum through which the general public, communities and other stakeholders concerned by the forest can express their values and needs for sustainable forest development and management.

The Sustainable Forest Management Strategy, which structures the sustainable forest management process, emphasizes the importance of maintaining the public’s interest and involvement in the forests and the forest management process, by creating opportunities for it to obtain information and engage in dialogue on the various issues.

The Sustainable Forest Development Act (CQLR, chapter A-18.1) (SFDA), assented to on April 1, 2010, marked a turning point, introducing a participatory management approach that provides opportunities for the population, communities and actors concerned to take part in the sustainable forest development and management decision-making process. These opportunities are consistent with one of the Act’s objectives, namely to foster consideration of the values and needs expressed by the populations concerned. To achieve this, the Act requires the Minister to prepare, make public, update and report on the consultation policy. In addition, it stipulates that the policy must include a separate procedure for the Aboriginal communities, established in a spirit of collaboration with them, which can be adjusted to allow for consideration of elements that are specific to them.

The Policy reflects the spirit of the Sustainable Development Act (CQLR, chapter D-8.1.1) (SDA) and the sustainable development principles it contains, in particular the principle of participation and commitment, which reads as follows: “The participation and commitment of citizens and citizens’ groups are needed to define a concerted vision of development and to ensure its environmental, social and economic sustainability.” It is also based on the principle of access to knowledge: “Measures favourable to education, access to information and research must be encouraged in order to stimulate innovation, raise awareness and ensure effective participation of the public in the implementation of sustainable development.”

1 Sustainable Forest Development Act, chapter A-18.1: Updated to April 1, 2016, [Québec], Éditeur officiel du Québec, s. 2(1)(6).
2 Sustainable Forest Development Act, chapter A-18.1: Updated to April 1, 2016, [Québec], Éditeur officiel du Québec, s. 9(1).
3 Sustainable Forest Development Act, chapter A-18.1: Updated to April 1, 2016, [Québec], Éditeur officiel du Québec, s. 224(1)(1).
4 Sustainable Forest Development Act, chapter A-18.1: Updated to April 1, 2016, [Québec], Éditeur officiel du Québec, s. 7, 9(2), 10.
5 The adjustments are described in the section of the policy dealing with the specific aspects of consultations for certain organizations or communities.
6 Sustainable Development Act D-8.1.1: Updated to November 1, 2016, [Québec], Éditeur officiel du Québec, s. 6(e).
7 Sustainable Development Act D-8.1.1: Updated to November 1, 2016, [Québec], Éditeur officiel du Québec, s. 6(f).
The Policy is also consistent with three objectives from the Government’s Sustainable Development Strategy for 2015-2020: objective 1.3 concerning the adoption of an approach based on public participation, objective 3.1 concerning efficient, coordinated management of natural resources, and objective 6.3, concerning support for public participation in community development.

BACKGROUND AND OBSERVATIONS

In 2003, in response to a requirement set out in the Forest Act [CQLR, chapter F-4.1] the MFFP introduced its first Consultation Policy on Québec’s Forest Management and Development Orientations.

The policy presented in this document (hereinafter the “Policy”) replaces the policy adopted in 2003 and takes into consideration the aspects of the forest regime introduced by the Sustainable Forest Development Act, the observations made during previous consultations, and developments in consultation practices. Several consultations have been held in recent years, from which a number of lessons have been drawn concerning consultation practices, including the following:

- Participants become tired of recurrent consultations by different government departments and agencies, aimed at the same groups of respondents. Consultation topics should therefore be clearly defined and targeted.
- Participants need to know if their comments have been taken into consideration and how they have influenced the decision. Feedback on the comments received and the validity of the decisions made is therefore important.
- The choice of communication methods has evolved significantly since 2003: most consultations now use a digital platform. The Policy must therefore incorporate these new communication practices.
- Consultations must evolve according to the topics concerned and the interest they generate. An ongoing improvement process is therefore required for public consultations.

These observations and proposed improvements have been considered, and are reflected in the Policy. The consultation practices it proposes will be more effective in ensuring that the interests, values and needs of the populations concerned are taken into consideration. They will also help improve the efficiency and effectiveness of the consultation process.

The new Policy also reflects the requirements introduced by the courts in connection with the obligation to consult and, if necessary, accommodate the Aboriginal communities.

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**OBJECTIVES**

The Policy sets out the structure to be used for consultations on sustainable forest development and forest management orientations, organized by the MFFP for the general public, communities and organizations concerned. It facilitates public participation and ensures that decisions better reflect the public’s interests, values and needs.

The consultations allow the MFFP to:

- provide transparent information for the citizens, communities and organizations concerned on the proposed ministerial orientations for sustainable forest development and forest management;
- hear the public’s expectations and needs and offer them an opportunity to influence decisions. This will strengthen the public’s sense of belonging to the forest and enhance its confidence in the Government’s management of the forests.

Among other things, the Policy sets out the general principles of and main steps in the consultation process, and describes the participants, aims and financial support.

The general principles set out in the Policy also apply to consultations on integrated forest management plans. However, additional conditions also apply to these consultations. They are described in the Manuel de consultation du public sur les plans d’aménagement forestier intégré et les plans d’aménagement spéciaux\(^{10}\) and in the Manuel de consultation des communautés autochtones sur les plans d’aménagement forestier intégré\(^{11}\).

**PRINCIPLES**

The Policy is based on the principles of openness, accessibility, transparency, flexibility, respect and user-friendliness. These principles form a basis for the Québec Government’s broader aim of achieving social acceptability. They are also consistent with Government’s Reference Framework for Public Participation, and can be summarized as follows:

- Consultations must begin as far upstream as possible in the decision-making process.
- The public consultation process is guided from the outset by the Government’s Reference Framework for Public Participation\(^{12}\).

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10 Ministère des Ressources naturelles et de la Faune, Manuel de consultation du public sur les plans d’aménagement forestier intégré et les plans d’aménagement spéciaux, 2016. (Available in French only)


12 Gouvernement du Québec, Cadre de référence gouvernemental sur la participation publique, 2016.

• Consultations must be organized in such a way that the individuals, communities and organizations concerned are able to express their views, and that their interests, values and needs are considered when preparing orientations for sustainable forest development and forest management in Québec.

• Where activities are required as part of the consultation process, they must be organized in an eco-responsible way.\(^{13}\)

• Communication tools must be adjusted to the aims of the consultation and use methods that are appropriate for the target audience.

• The conditions must be clearly described, identified, defined and known to participants before the consultations begin.

• Participants must have access to relevant, good quality documents written using clear and simple language.

• Participants must have enough time to learn about the proposals made and to prepare and submit their opinions or briefs. In some circumstances, the time allowed may be influenced by State management requirements.

• Dialogue must be respectful and must take place within a receptive environment.

• The Minister must make his or her decision known to the public, and identify the main elements that were considered during the decision-making process.

**PARTICIPANTS**

Consultations on sustainable forest development and forest management are public and are intended for all concerned organizations, communities and individuals in Québec.

The Minister may also hold targeted provincial or regional consultations and invite specific individuals, organizations or communities to take part. These targeted consultations are not announced publicly. However, there is nothing to prevent someone who has not been invited from stepping forward to submit an opinion.

**TOPICS**

The topics for consultation relate to sustainable forest development and forest management orientations being considered by MFFP. They may concern either the public or the private forests, and be provincial or regional in scope.

\(^{13}\) [www.mddelcc.gouv.qc.ca/developpement/outils/aide-memoire.pdf](www.mddelcc.gouv.qc.ca/developpement/outils/aide-memoire.pdf)
Some topics are provincial in scope, meaning that they are of concern to the population of the entire province or a group of regions. Below is a non-exhaustive list of topics that are provincial in scope:

- guidelines for the preparation of a draft law or regulation, or major amendments to a current law or regulation;
- general policies or strategies, or amendments, covering elements relating to:
  - timber production;
  - integrated resource management;
  - protection of biodiversity;
- delineation, or modification, of the territorial boundary south of which sustainable forest development activities are permitted.

Other topics are regional in scope and are implemented locally. Consultations on these topics must follow the Policy’s principles, but the methods may be adjusted to the situation in the region and the nature of the topic.

Below is a non-exhaustive list of topics that are regional in scope:

- territorial delimitations (management units, local forests);
- integrated forest management plans (PAFIs)\(^{14}\);
- areas of increased timber production.

**CONSULTATION PROCESS**

It is up to the Minister to establish the consultation procedure, with due regard for the principles set out in the Policy. The procedure is adjusted to reflect the provincial or regional nature of the topic for consultation. Other adjustments may also be made to suit the target audience for the consultations: for example, the Aboriginal nations, which are consulted separately. In these cases, the Policy is applied, but certain other aspects must also be taken into consideration. Please see the section on specific aspects of consultations aimed at certain organizations and communities.

Ministerial and government actions in consultations that are provincial in scope may require coordination, for example where several government departments are involved, or where two or more consultations are organized at the same time. In these cases, information on public consultations (proposed dates, regions affected, topics for consultation, etc.) is sent to the other departments concerned, so that actions can be combined where possible.

\(^{14}\) For the integrated forest management plans, specific consultation methods are set out in the Manuel de consultation du public sur les plans d’aménagement forestier intégré et les plans d’aménagement spéciaux and in the Manuel de consultation des communautés autochtones sur les plans d’aménagement forestier intégré (available in French only).
Consultations on topics that are provincial in scope

The MFFP publishes the list of proposed consultations on its website. The list is updated periodically. The method used for consultations on topics that are provincial in scope are as follows:

- The consultation is announced publicly, as early as possible, specifying:
  - the topic for consultation;
  - the consultation procedure (e.g. important dates, schedule of information meetings, etc.);
  - information for participants on the methods they can use to submit their comments and suggestions;
  - the individuals, communities and organizations forming the target audience for the consultation;
  - what is expected of the consultation.

- All relevant information is produced and made available before the consultation begins, on the MFFP’s website or in any other format considered appropriate.

- A resource person is made available to answer participants’ questions.

- The consultation period is specific to each individual consultation. It is stipulated in the announcement and:
  - depends the complexity of the topic for consultation and the methods by which participants may submit opinions (electronically, survey, brief submitted by e-mail, letter, etc.);
  - is adjusted to allow the individuals, communities and organizations concerned to:
    - read and analyze the consultation documents;
    - foster collaboration between groups when preparing their opinions;
    - produce an opinion and submit it before the end of the consultation period.

- Provincial consultations never take place between June 24 and August 31, or between December 15 and January 15.

- Simultaneous consultations on topics that are provincial in scope should be avoided.

- Information, discussion and consultation activities may be organized in the regions, or may be included in activities such as major conventions, fairs or exhibitions, so as to promote the consultation process and increase participation.

- A consultation report summarizing the comments received is prepared and published on the MFFP’s website.

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15 Ministère des Forêts, de la Faune et des Parcs, Consultations of partners and the general public: mffp.gouv.gc.ca/les-forets/consultation-public-partenaires/

16 Additional information on consultations can be found in Appendix 1 – Additional information on provincial consultations.
• A participant satisfaction survey is administered after every consultation, and the results of the survey are published on the MFFP’s website.

• The final decision is published on the MFFP’s website, along with a list of the main elements raised during the consultation and considered when making the decision.

Other methods may be applied in certain circumstances, for example in an emergency or for issues requiring special expertise.

**Consultations on topics that are regional in scope**

The procedure used for consultations on topics that are regional in scope is adjusted according to the characteristics of the topic, the features of the region concerned and any specific elements applicable to the individuals, organizations and communities concerned. It must, however, be consistent with the principles set out in the Policy, and with the procedure for Aboriginal community consultations where applicable.

**The minister’s responsibility for consultations**

The MFFP can entrust a regional county municipality (RCM)\(^\text{17}\), a group of RCMs or a competent organization\(^\text{18}\) with the task of organizing consultations in Québec’s regions. In such cases, depending on the capacity of the RCM, group or organization, it may take responsibility for meeting logistics (organization, minutes, room reservations, etc.), analysis of comments and production of the regional summary. However, the MFFP is always responsible for publicity, providing the necessary information, explaining the projects to which the consultations apply, preparing the report of consultation findings, producing the feedback document and circulating information to the general public.

In no case may the Minister delegate the obligation to consult and, if necessary, accommodate the Aboriginal communities.

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\(^{17}\) Municipal Powers Act, chapter C-47.1: updated to April 1, 2016, [Québec], Éditeur officiel du Québec, s. 126.3(1).

\(^{18}\) Act respecting the Ministère des Affaires municipales, des Régions et de l’Occupation du territoire, chapter M-22.1: updated to May 15, 2016, [Québec], Éditeur officiel du Québec, s. 21.5.
SPECIFIC ASPECTS OF CONSULTATIONS AIMED AT CERTAIN ORGANIZATIONS AND COMMUNITIES

Aboriginal communities

The MFFP is bound by a certain number of commitments towards Aboriginal groups and has a constitutional obligation to consult and, where necessary, accommodate them. Specific aspects must be considered when applying the Policy to these consultations:

- The Policy does not replace the agreements entered into by Québec and an Aboriginal group, and if the two are incompatible, the agreements take precedence.

- The Policy must be applied in compliance with the provisions of the forest regime that are specific to Aboriginal communities, and with the Supreme Court of Canada’s rulings on the duty to consult and, where necessary, accommodate Aboriginal communities. For example:
  - The Sustainable Forest Development Act contains provisions specific to the Aboriginal communities, designed to ensure that their rights, interests, values and needs are taken into account in the sustainable forest development process.
  - Another major component of the forest regime, the Sustainable Forest Management Strategy, also emphasizes the importance of considering the rights, interests, values and needs of the Aboriginal communities, and the MFFP’s role in maintaining constructive, harmonious relationships with the Aboriginal communities.
  - These specific aspects of the forest regime apply alongside the constitutional obligation to consult and, where necessary, accommodate the Aboriginal communities. The Québec Government is bound by this obligation in cases where it considers an action likely to have a harmful impact on existing or potential ancestral or treaty rights. The obligation arises from the principle of the honour of the Crown, under which the Crown is required to act honourably in its dealings with the Aboriginal peoples.
  - The Interim Guide for Consulting the Aboriginal Communities, published by the Québec Government, must also be used for application of the Policy. It sets out details of the obligation to consult for government departments and agencies.

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19 For example, the James Bay and Northern Québec Agreement and the Agreement Concerning a New Relationship between the Gouvernement du Québec and the Crees of Québec, also known as the Peace of the Braves, are considered to be agreements.

20 Sustainable Forest Development Act, chapter A-18.1: updated to April 1, 2016, [Québec], Éditeur officiel du Québec, ss. 6 to 12, 37, 38, 40, 55, 58 and 224.

21 With regard to this obligation, see the following decisions in particular: Haida Nation v. British Columbia [Ministry of Forests], [2004] 3 R.C.S. 511; Rio Tinto Alcan v. Carrier Sekani Tribal Council, [2010] 2 R.C.S. 650; and Beckman v. Little Salmon/Carmacks First Nation, [2010] 3 R.C.S. 103. Among other things, the Supreme Court of Canada has stipulated that the purpose of the obligation is to take into consideration the existing ancestral or treaty rights of Canada’s Aboriginal peoples, within the meaning of section 35 of the Constitution Act, 1982, and to reconcile the interests of the Aboriginal people with those of society in general.

The Policy therefore applies to the Aboriginal communities, with due regard for the following:

- The Aboriginal communities must be consulted separately by the MFFP.
- The MFFP must seek to agree on consultation methods with the Aboriginal communities, to ensure that the consultations are adjusted to the context in the communities, and with a view to improving its consultation processes and its relations with the communities over time.
- Dialogue between the MFFP and the Aboriginal communities may take different forms and may continue throughout the consultation process. Meetings may be held if necessary.
- The MFFP must organize the consultations with a view to taking the communities’ concerns into account, and with due regard for their existing or potential ancestral or treaty rights.
- The MFFP must seek to agree with the Aboriginal communities on the accommodation measures required to avoid or, as far as possible, mitigate the harmful impacts of the proposed actions on their rights.
- If the consultation topic is amended, the MFFP must provide updated information for the Aboriginal communities and take their concerns about the amendments into account where applicable.
- The MFFP must provide specific feedback to Aboriginal communities that take part in the consultation. The feedback should include a summary of the consultation procedure and, where applicable, information on how the MFFP took into account the comments and concerns expressed.

The Québec Government favours the negotiation of agreements with Aboriginal communities that so wish, in particular for consultations and, where applicable, accommodations, in order to establish and maintain relationships founded on mutual trust and respect.

Forestry partners panel

The Forestry Partners Panel is a consultation forum held as part of the Policy’s implementation. It is used to inform members, discuss ministerial intentions and gather the opinions of participants with a view to improving the proposed sustainable forest development and forest management orientations. Dialogue takes place between the Panel’s members and the MFFP’s authorities in order to identify the issues that must be considered in connection with specific ministerial intentions. It allows the Minister to review sustainable forest development, identify issues common to several members and achieve a consensus that will have a greater impact on the decision-making process.

The Minister appoints the Panel’s members. Members represent provincial associations and organizations concerned by forest management and sustainable forest development issues. The Minister also establishes the Panel’s operating rules. A list of Panel members and details of its operating rules can be found on the MFFP’s website.

Participant satisfaction surveys are carried out among Panel members to ensure that the Policy’s principles are being applied, and with a view to improving the Panel’s operations over time.

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23 Sustainable Forest Management Act, chapter A-18.1: updated to April 1, 2016, [Québec], Éditeur officiel du Québec, s. 9(3).
24 Ministère des Forêts, de la faune et des Parcs, Forestry Partners Panel: www.mffp.gouv.qc.ca/forets/table-partenaires-foret.jsp
Organizations created pursuant to northern agreements

The advisory committees created under the Northern agreements, including the James Bay Advisory Committee on the Environment\(^\text{25}\) and the Cree-Québec Forestry Board\(^\text{26}\), will be consulted in accordance with their respective missions and expertise, in compliance with the agreements.

**FINANCIAL SUPPORT**

The MFFP pays the cost of producing, translating where applicable, publishing and distributing the information required for the consultations. If responsibilities are shared with an RCM, group of RCMs or another organization, a financial support agreement may be signed. In cases where public sessions are planned, the MFFP may also pay the cost of renting the consultation room and technical material, and hiring session moderators if necessary.

Individuals and organizations taking part in consultations must pay their own participation costs (travel, brief preparation, consulting members in the case of an organization, etc.).

If budgets are available, financial support may be paid to facilitate participation by Aboriginal communities, on the conditions stipulated in the applicable programs.

**MONITORING, EVALUATION AND REVISION OF THE POLICY**

The Minister reports on the Policy’s general implementation in the five-yearly review of sustainable forest development prescribed by the Sustainable Forest Development Act\(^\text{27}\) and focuses in particular on the separate consultations held for Aboriginal communities. The five-yearly review can be used to help improve the Policy.

In addition, the MFFP’s annual Management Report, which forms part of the reporting process prescribed by the Public Administration Act [CQLR, chapter A-6.01], presents the results of the MFFP’s strategic orientations, its undertakings in its Declaration of Services to Citizens, and its actions in the area of sustainable development. Some of the aims in the MFFP’s 2014-2018 Strategic Plan concern public participation and harmonious relationships with Aboriginal nations and communities\(^\text{28}\).

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\(^{26}\) Cree-Québec Forestry Board: [www.ccqf-cqfb.ca/fr/accueil/](http://www.ccqf-cqfb.ca/fr/accueil/)

\(^{27}\) Idem note 3

APPENDIX 1

ADDITIONAL INFORMATION ON PROVINCIAL CONSULTATIONS

Consultation website

A separate website is created for every province-wide consultation, and remains online for future reference. These websites can be accessed via the French version of the MFFP’s website, in the section entitled “Forêts”, on the “Consultation du public et des partenaires” page. The website presents:

- the topic for consultation;
- the documents and other elements relating to the topic, such as:
  - proposals for desired changes;
  - supporting document (analysis, report);
  - details of public meetings;
- the schedule and general consultation procedure;
- relevant information prepared by the MFFP;
- details of how individuals and groups can take part;
- what is expected of participants;
- reference documents (participant information documents, maps, response templates, etc.);
- the consultation report;
- the results of participant satisfaction surveys;
- information on feedback as follow-up to the consultation by the MFFP, including web links leading to documents presenting the definitive guidelines that are adopted.

Response framework

The MFFP describes the type of information it would like to receive from the individuals, communities and organizations consulted. These details are set out in a template presented with along the texts and other information documents (maps, factsheets, etc.) prepared for the consultation. Use of the template is optional; however, it may help participants to structure their briefs, opinions and analyses, and may be useful for preparation of the final consultation report.

29 Ministère des Forêts, de la Faune et des Parcs, Consultation of the public and partners: mffp.gouv.qc.ca/les-forets/consultation-public-partenaires/
Consultation report

The MFFP submits a consultation report presenting the findings from the consultation. The report sets out the principal comments made by the individuals, communities and organizations that submitted briefs or opinions, along with information on:

- the consultation methods;
- overall participation (number of participants at the meetings, number of briefs received, variety of views expressed, etc.);
- steps taken to ensure compliance with the principles of the Policy;
- a summary of comments made by individuals and organizations during the consultation process, with emphasis on any differences of opinion and consensus;
- next steps: communication and implementation of the Minister’s decision.

The consultation report is a recapitulation document, and shows participants that their interests were brought to the Minister’s attention. It is posted on the consultation website within a reasonable time after the end of the consultation, and remains available for future reference.