

ENVIRONMENT AND CLIMATE CHANGE CANADA (ECCC) OVERVIEW OF POLAR BEAR MANAGEMENT ROLES AND RESPONSIBILITIES

Prepared for: Phase 2 of the “Public Hearing: Consideration for Non-Quota Limitations (NQLs) for Polar Bears in the NMR and EMR”, February 4-7, 2025 Kuujjuaraapik/Whapmagoostui, Quebec.

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OUTLINE

1. Polar Bear Status and Threats
2. Federal/Provincial/Territorial Roles and Indigenous Co-management of Polar Bears in Canada
3. ECCC – Federal Jurisdiction
4. ECCC – Branch Roles & Responsibilities
5. ECCC – Harvest Management and International trade
6. ECCC – Roles & Responsibilities in the Nunavik Marine Region and Eeyou Marine Region
7. PRELIMINARY - ECCC responses to the 4 expanded written questions submitted by the Boards to ECCC and Government of Nunavut as part of the “Issues and Questions” document in advance of the Phase 2 Hearing on December 19th, 2024.



1. POLAR BEAR STATUS AND THREATS

Distribution & Abundance in Canada

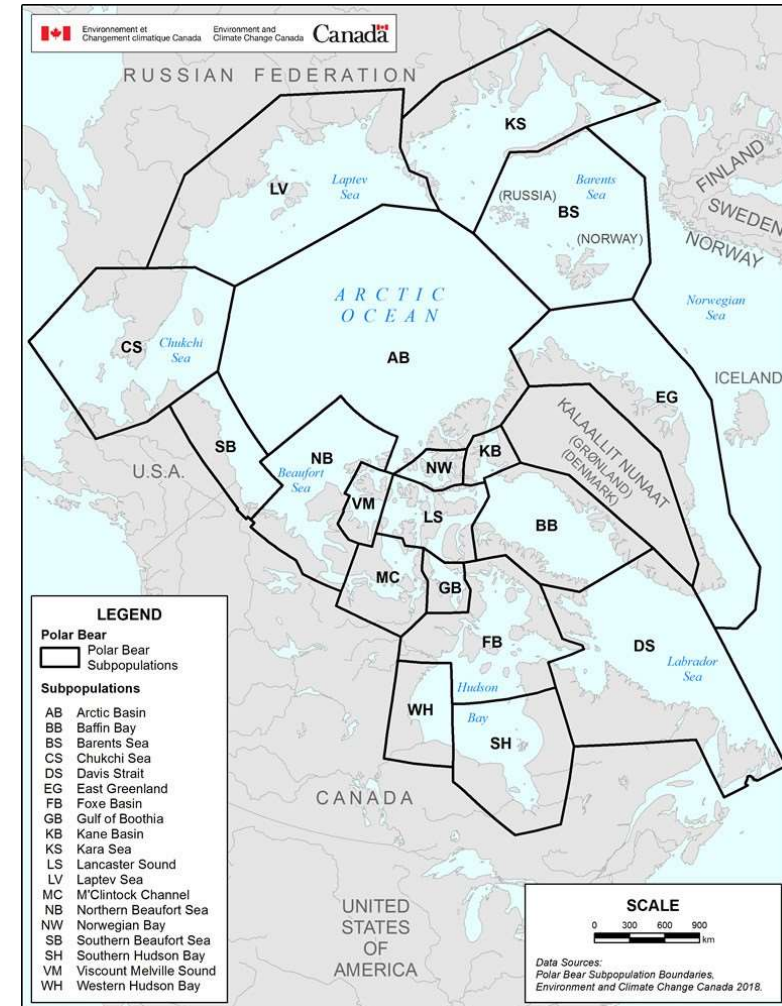
- 13 subpopulations within/shared by Canada

Status & Trends

- Federal: Special Concern under Species at Risk Act (SARA)
- Provinces/Territories: status varies
- Canadian subpopulation trends: Polar Bear Technical Committee (PBTC) Annual Reports and Status Tables indicate variable (stable, increasing or decreasing) subpopulation status
- Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) Appendix II

Threats (Committee on the Status of Endangered Wildlife in Canada (COSEWIC))

- Primary threat: sea-ice habitat loss caused by climate change
- Low/Negligible threats: unsustainable harvest, pollution, development/shipping, tourism



Source: Polar bear subpopulation boundaries provided by Environment and Climate Change Canada 2018.



2. FEDERAL/PROVINCIAL/TERRITORIAL ROLES AND INDIGENOUS CO-MANAGEMENT OF POLAR BEARS IN CANADA

- Management authority for polar bears is shared by Federal, Provincial and Territorial (F/P/T) governments; key forums such as the Polar Bear Administrative Committee (PBAC) & the PBTC include Indigenous organizations as members.
- In most of the species' range, critical management decisions (e.g., management plans, harvest limits) flow through Wildlife Management Boards

Canada



- National coordination
- CITES permit issuance
- International agreements
- Habitat protection on federal lands
- Research
- Support P/T led inventory and monitoring
- ECCC Minister is involved in processes that flow through some Wildlife Management Boards/Advisory Councils that affect polar bear harvest levels



- Most day-to day management
 - Determine harvest levels in most places
 - Enforce harvest regulations
 - Address human-polar bear conflict
- Habitat protection on P/T lands
- Lead population inventory, monitoring and research



3. ECCC – FEDERAL JURISDICTION

Species at Risk Act

- A “Federal Management Plan for the Polar Bear in Canada” is in development & guides policy and research priority & actions.
- Plan will be comprised of 6 comprehensive P/T management plans and recovery strategies, plus a federal addition.

International Agreements

- 1973 *Agreement on the Conservation of Polar Bears*: cooperation agreement between Canada, U.S. Norway, Greenland, and Russia
- Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES): international trade
- Bilateral arrangements (With the US & Greenland)

Land Claims Agreements and Treaties

- Legal structure and direction for Indigenous co-management and decision-making.
- ECCC Minister has different authority/responsibilities in different settlement areas.

Coordination with Provincial and Territorial Governments, Land Claims Organizations, Wildlife Boards

- ECCC plays a central role via Polar Bear Administrative Committee (PBAC) and Polar Bear Technical Committee (PBTC)



4. ECCC – BRANCH ROLES & RESPONSIBILITIES

Canadian Wildlife Service Branch

Wildlife Management Directorate (Wildlife Management and Regulatory Affairs Division)

- Represent ECCC at the PBAC & provide PBAC/PBTC secretariat
- Lead on the development of the “Federal Management Plan for the Polar Bear in Canada”
- Represent Canada as the Canadian Head of Delegation for the Polar Bear Range States (PBRS)
- Represent the CITES Management Authority in polar bear permitting decisions
- Administer Grant and Contribution Agreements
- Participate in Wildlife Management Board processes

Regional Operations Directorate

- Participate in Wildlife Management Board processes
- Community consultations

Biodiversity Policy and Partnerships Directorate

- Represent the CITES Scientific Authority (including non-detriment finding assessment of polar bear permits)

Science and Technology Branch

Wildlife and Landscape Science Directorate

- Represent ECCC at the PBTC, IUCN/SSC Polar Bear Specialist Group (PBSG)
- Lead on Polar Bear Research
- Administer Grant and Contribution Agreements
- Participate in Wildlife Management Board processes

Enforcement Branch

Wildlife Enforcement Directorate

- Enforcement action under Canada Wildlife Act, the Wild Animal and Plant Protection and Regulation of International and Inter-provincial Trade Act (WAPPRITA), and the Species at Risk Act (SARA)
- Lead three-pronged approach to identify and track legal polar bear hides.



5. HARVEST MANAGEMENT AND INTERNATIONAL TRADE

Harvest rights and management:

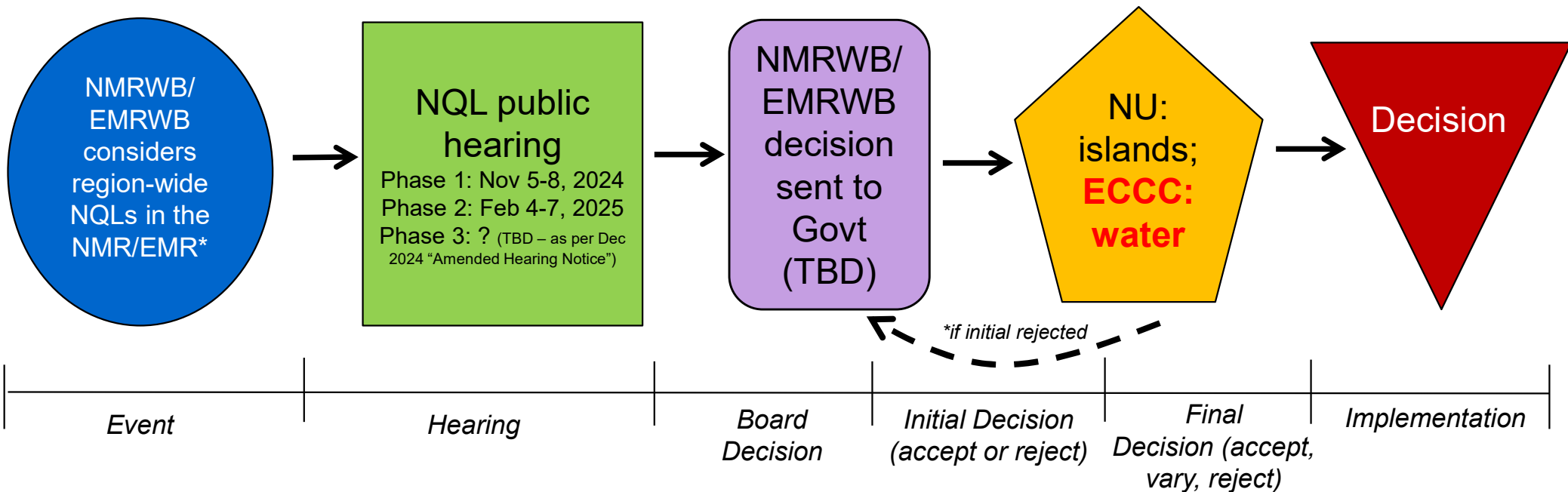
- Only Indigenous rights holders can legally harvest polar bears in Canada (sports hunting with an Inuit guide is allowed in some circumstances).
- In most of the species' range, management decisions, including the determination of harvest quotas, are made by Wildlife Management Boards (WMBs), per Crown-Indigenous Land Claim Agreements.
- In most cases, Provinces and Territories (P/Ts) implement WMB decisions using P/T regulations.

International trade:

- CITES export permits responsibility of Federal government.
- Non-detriment (NDF) findings:
 - NDF assessment via ongoing monitoring of harvest management and trade.
 - Canada's NDF report for polar bear published in 2024: <https://www.canada.ca/en/environment-climate-change/services/convention-international-trade-endangered-species/non-detriment-findings/polar-bear.html>
 - Export of legally harvested polar bear from Canada is considered non-detrimental.



6. ECCC ROLES AND RESPONSIBILITIES IN THE NUNAVIK MARINE REGION AND EYYOU MARINE REGION



*noting: In Dec 2024 – an “Amended Hearing Notice” was shared to include a reconsideration of the current Total Allowable Take (TAT) and NQLs in place for the Southern Hudson Bay Polar Bear management unit.



7. PRELIMINARY - ECCC RESPONSES TO THE 4 EXPANDED WRITTEN QUESTIONS SUBMITTED BY THE BOARDS TO ECCC AND GOVERNMENT OF NUNAVUT AS PART OF THE “ISSUES AND QUESTIONS” DOCUMENT IN ADVANCE OF THE PHASE 2 HEARING ON DECEMBER 19TH, 2024.

1. What is the nature of the Government of Nunavut's and the Federal Government's jurisdiction/authority over Polar Bear and Polar Bear harvesting in the area covered in Phase 2? Please provide your analysis and information on the legal basis for this authority/jurisdiction.
2. Who is the “Minister Responsible” to whom the NMRWB and the EMRWB would submit their management decisions on Polar Bear as per Part 5.5 of the NILCA and Chapter 15 of the EMRLCA? And if it is both the Minister within the Government of Nunavut and the Government of Canada, how would a difference in position between the two Ministers be managed?
3. Which government (Government of Nunavut or Government of Canada) would be responsible for implementing decisions as per the NILCA (sections 5.5.10 and/or 5.5.21), and the EMRLCA (sections 15.3.5 and/or 15.4.5)? Again, please provide the legal analysis and information to explain the legal basis for the Government of Nunavut's and the Government of Canada's role in NMRWB and EMRWB decision implementation.
4. Finally, if responsibility for implementation is shared between the Government of Nunavut and the Federal Government, how are the Government of Nunavut and the Government of Canada going to work together to fulfill these shared responsibilities? What mechanisms and instruments are currently in place to ensure the Government of Canada and the Government of Nunavut are fulfilling their shared obligation to implement NMRWB and EMRWB decisions?



1. WHAT IS THE NATURE OF THE GOVERNMENT OF NUNAVUT'S AND THE FEDERAL GOVERNMENT'S JURISDICTION/AUTHORITY OVER POLAR BEAR AND POLAR BEAR HARVESTING IN THE AREA COVERED IN PHASE 2? PLEASE PROVIDE YOUR ANALYSIS AND INFORMATION ON THE LEGAL BASIS FOR THIS AUTHORITY/JURISDICTION.

- The Nunavik Inuit Land Claims Agreement (NILCA) is a modern treaty between Nunavik Inuit and the federal Crown that came into force in 2008.
- The Nunavik Marine Region (NMR) is the area offshore and adjacent to Québec (NILCA, article 3.2).
- Article 5 of the NILCA creates a wildlife management system, co-management structures and processes for the NMR.
- This system includes the Nunavik Marine Region Wildlife Board (NMRWB), which is the “main instrument of wildlife management in the NMR and the main regulator of access to wildlife” (NILCA, 5.2.3).
- The NMRWB performs functions including establishing, modifying or removing levels of total allowable take for a species (NILCA, 5.2.3(a)) and establishing, modifying or removing non-quota limitations (NILCA, 5.2.3(e)).
- Under the NILCA, wildlife management decisions made by of the NMRWB are forwarded sent to either the federal or territorial Minister, depending on which level of government has jurisdiction.

****Response continues on Slide 11.**

** Please note, this is ECCC's preliminary response ahead of Phase 2 (submitted as part of the Information Request deadline of January 24, 2025). Response is subject to change based on review of all evidence entered to the official record during the full hearing phases (1, 2 and 3(TBD)). ECCC recognizes the importance of the evidence presented by all parties in Phase 1, Phase 2 and anticipated in Phase 3 (TBD).*



1. WHAT IS THE NATURE OF THE GOVERNMENT OF NUNAVUT'S AND THE FEDERAL GOVERNMENT'S JURISDICTION/AUTHORITY OVER POLAR BEAR AND POLAR BEAR HARVESTING IN THE AREA COVERED IN PHASE 2? PLEASE PROVIDE YOUR ANALYSIS AND INFORMATION ON THE LEGAL BASIS FOR THIS AUTHORITY/JURISDICTION.

...response continued from slide 10:

- Under Article 1.1 (d) of the NILCA, “**Government(s)**” means the Government of Canada or the Government of Nunavut, or both, as the context requires, depending on their jurisdiction and the subject matter referred to;” and “**Minister**” means a Minister of the Government of Canada or a member of the Executive Council of the Government of Nunavut appointed as Minister, as the context requires, responsible for the subject-matter referred to;”
- Under article 5.1.2 (j) “Government has ultimate responsibility for wildlife management and agrees to exercise this responsibility in the NMR in accordance with the provisions of this Article.”
- The federal Minister must either accept or reject initial decisions of the NMRWB (NILCA, 5.5.8), and accept, reject or vary final NMRWB decisions (NILCA, 5.5.12). The Minister must also do all things necessary to implement a final decision, or a final decision as varied (NILCA, 5.5.13).

****Response continues on Slide 12.**

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1. WHAT IS THE NATURE OF THE GOVERNMENT OF NUNAVUT'S AND THE FEDERAL GOVERNMENT'S JURISDICTION/AUTHORITY OVER POLAR BEAR AND POLAR BEAR HARVESTING IN THE AREA COVERED IN PHASE 2? PLEASE PROVIDE YOUR ANALYSIS AND INFORMATION ON THE LEGAL BASIS FOR THIS AUTHORITY/JURISDICTION.

...response continued from slide 11:

- Under Part III Wildlife and Wildlife Management, Chapter 15 of the Eeyou Marine Region Land Claims Agreement (EMRLCA), any decision by the EMRWB would be forwarded to the federal or territorial Minister depending on which Minister has jurisdiction. The EMRLCA defines “Government” as the government of Canada or the government of Nunavut or both, as the context requires, depending on their jurisdiction and the subject matter referred to, or else determined pursuant to section 2.20. The EMRLCA defines “Minister as a minister of the government of Canada or a member of the Executive Council of the government of Nunavut appointed as minister, as the context requires, responsible for the subject matters referred to”. Article 15.3 outlines “Legal Effect of Decisions of the EMRWB (Government of Canada Jurisdiction)” while 15.4 outlines “Legal Effect of Decisions of the EMRWB (Government of Nunavut Jurisdiction).” Specifically, 15.3.8 and 15.4.9 provide that respective Ministers must proceed “forthwith to do all things necessary to implement the final decision or the final decision as varied” and “the Minister shall proceed forthwith to implement the final decision” respectively.

End of response to Question 1.

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2. WHO IS THE “MINISTER RESPONSIBLE” TO WHOM THE NMRWB AND THE EMRWB WOULD SUBMIT THEIR MANAGEMENT DECISIONS ON POLAR BEAR AS PER PART 5.5 OF THE NILCA AND CHAPTER 15 OF THE EMRLCA? AND IF IT IS BOTH THE MINISTER WITHIN THE GOVERNMENT OF NUNAVUT AND THE GOVERNMENT OF CANADA, HOW WOULD A DIFFERENCE IN POSITION BETWEEN THE TWO MINISTERS BE MANAGED?

- In the case of Davis Strait (DS), Foxe Basin (FB), and Southern Hudson Bay (SH) polar bear subpopulations, NMRWB decisions under the Nunavik Inuit Land Claims Agreement (NILCA) are forwarded to the Minister of Environment and Climate Change Canada (ECCC) and Minister of Environment of the Government of Nunavut.
- Similarly, under Part III Wildlife and Wildlife Management, Chapter 15 of the Eeyou Marine Region Land Claims Agreement (EMRLCA), any decision by the EMRWB would be forwarded to the appropriate federal and/or territorial Minister, which in this case are the Minister of Environment and Climate Change Canada and Minister of Environment of the Government of Nunavut as appropriate.
- The federal government has authority in the offshore waters in the Nunavik Marine Region (NMR) and Eeyou Marine Region (EMR). The Government of Nunavut has authority over the islands that are part of Nunavut in the NMR and EMR.

****Response continues on slide 14**

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2. WHO IS THE “MINISTER RESPONSIBLE” TO WHOM THE NMRWB AND THE EMRWB WOULD SUBMIT THEIR MANAGEMENT DECISIONS ON POLAR BEAR AS PER PART 5.5 OF THE NILCA AND CHAPTER 15 OF THE EMRLCA? AND IF IT IS BOTH THE MINISTER WITHIN THE GOVERNMENT OF NUNAVUT AND THE GOVERNMENT OF CANADA, HOW WOULD A DIFFERENCE IN POSITION BETWEEN THE TWO MINISTERS BE MANAGED?

...response continued from slide 13:

- There are no specific NILCA or EMRLCA provisions that address a situation in which a Board decision is forwarded to both Ministers and a difference of position between the two Ministers needs to be managed. Additionally, there are no provisions in the NILCA or EMRLCA that prevent the Governments from developing mechanisms to facilitate cooperation. There is a strong argument that adhering to the Principles (NILCA, 5.1.2) and meeting the Objectives (NILCA, 5.1.3) of the Wildlife Article and Chapter 10 “Principles and Objectives” of the EMRLCA signals that the Governments of Canada and Nunavut should cooperate in such a situation.

End of response to Question 2.

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3. WHICH GOVERNMENT (GOVERNMENT OF NUNAVUT OR GOVERNMENT OF CANADA) WOULD BE RESPONSIBLE FOR IMPLEMENTING DECISIONS AS PER THE NILCA (SECTIONS 5.5.10 AND/OR 5.5.21), AND THE EMRLCA (SECTIONS 15.3.5 AND/OR 15.4.5)? AGAIN, PLEASE PROVIDE THE LEGAL ANALYSIS AND INFORMATION TO EXPLAIN THE LEGAL BASIS FOR THE GOVERNMENT OF NUNAVUT'S AND THE GOVERNMENT OF CANADA'S ROLE IN NMRWB AND EMRWB DECISION IMPLEMENTATION.

- The federal government's view is that the Minister of Environment and Climate Change has a responsibility to implement Nunavik Marine Region Wildlife Board and Eeyou Marine Region Wildlife Board decisions in the offshore areas under the Nunavik Inuit Land Claims Agreement (NILCA) and the Eeyou Marine Region Land Claims Agreement (EMRLCA).
- Section 5.5.10 of the NILCA and 15.4.9 of the EMRLCA requires the Minister to implement Board decisions that the Minister has accepted. Since the Boards' decisions as they relate to polar bears in offshore areas beyond the low water mark would be forwarded to the federal Minister, the federal Minister must implement those Board decisions. The territorial Minister would be responsible for implementing Board decisions that they accept, in relation to the islands in the NMR and EMR.

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4. FINALLY, IF RESPONSIBILITY FOR IMPLEMENTATION IS SHARED BETWEEN THE GOVERNMENT OF NUNAVUT AND THE FEDERAL GOVERNMENT, HOW ARE THE GOVERNMENT OF NUNAVUT AND THE GOVERNMENT OF CANADA GOING TO WORK TOGETHER TO FULFILL THESE SHARED RESPONSIBILITIES? WHAT MECHANISMS AND INSTRUMENTS ARE CURRENTLY IN PLACE TO ENSURE THE GOVERNMENT OF CANADA AND THE GOVERNMENT OF NUNAVUT ARE FULFILLING THEIR SHARED OBLIGATION TO IMPLEMENT NMRWB AND EMRWB DECISIONS?

- ECCC is committed to working with all relevant parties when implementing its treaty obligations under the NILCA and EMRLCA.
- ECCC actively engages and collaborates with the Government of Nunavut on a variety of polar bear related interjurisdictional committees and working groups. Fulfilling any shared responsibility under the NILCA and EMRLCA falls under this bilateral purview. The responsible Ministers will strive to coordinate their response to the NMRWB and EMRWB decision(s). In addition, ECCC is in discussions with the governments of Nunavut and Québec to explore coordinated measures to implement harvest decisions.
- ECCC believes the path to a framework for polar bear management in the Nunavik Marine Region is described in the Québec, Nunavik Marine Region, and Eeyou Marine Region plan (QC-NMR-EMR) polar bear management plan, which was partner-led and to the extent possible, attempted to ensure that Inuit, Cree and scientific perspectives have been reflected appropriately throughout the development of the management plan.

****Response continues on slide 17**

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...response continued from slide 16:

- The QC-NMR-EMR polar bear management plan acts as a basis to co-develop an effective management framework through the implementation of components of the plan (enumerated under Objective 1). This includes, for example, a review of the harvest registration process and harvest management system that provides the tools necessary to achieve agreed-upon management objectives and long-term persistence of polar bears populations. ECCC would welcome the opportunity to participate in a working group that examines implementation of the QC-EMR-NMR management plan.
- ECCC would like to recognize the Nunavik Inuit Harvest Monitoring System proposed by Makivvik and Anguvigaq as a foundational step forward that supports stewardship-based management and express an interest in learning more about the initiative. ECCC also recognizes the importance of engaging with Cree Nation Government with regards to polar bear subpopulations within shared jurisdiction.

End of response to Question 4.

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