

## Points to consider re: Environment Canada discussion document around Nagoya Protocol

1. In the documents that Environment Canada has they avoid talking about "Indigenous peoples". They use the language of "indigenous communities" or "indigenous and local communities". Quakers and our partners are concerned about this and have raised it with the CBD and elsewhere (most recently <http://quakerservice.ca/news/cbd-draft-flawed/>). "Indigenous peoples" are recognized in Canada's constitution, they are named as "Indigenous peoples" in other Government of Canada documents, Canada has endorsed the UN Declaration on the Rights of Indigenous Peoples, why does Environment Canada choose to use the term "indigenous communities"? ("Indigenous peoples" implies specific collective as well as individual rights under international law, while "indigenous communities" means nothing in particular legal terms).
2. The important Supreme Court of Canada *Tsilhqot'in* decision (links to the decision, CFSC's intervention, videos about the significance of the decision, etc. at <http://quakerservice.ca/our-work/indigenous-peoples-rights/canada-based-work/>) clarifies what "consent" means in Canada and when it has to be obtained. Should Environment Canada's document not be more explicit and detailed, drawing from this and other legal decisions to describe the requirements around obtaining consent in Canada?
3. CFSC worked with partners to issue joint statements on the CBD since 2010:
  - a. <http://www.quakerservice.ca/canadacop12letter>
  - b. <http://quakerservice.ca/wp-content/uploads/2013/04/WG-8j-Joint-Submission-Implications-of-Paras-26-and-27-PFII-Report-of-10th-session-added-names-FINAL-April-1-13.pdf>,
  - c. <http://quakerservice.ca/wp-content/uploads/2012/05/PFII-2012-Joint-Statement-re-Positions-Taken-by-Secretariat-of-CBD-May-10-12.pdf>,
  - d. <http://quakerservice.ca/wp-content/uploads/2011/05/ABS-JointStatementonCBDprocessDraftProtocol0706101.pdf>,
  - e. <http://quakerservice.ca/wp-content/uploads/2011/05/PFII2010-JointStatementonCBDdraftProtocolandUNDeclFINAL-Apr23101.pdf>

Quaker International Affairs Program was previously supporting Indigenous partners in its work on the CBD in particular Quebec Native Women and the Grand Council of the Crees. CFSC Indigenous Rights program coordinator Jennifer Preston went to the last few meetings held in Montreal for QIRC and will likely attend the next meeting in Montreal. Tasmin Rajotte was involved prior to this but the information she developed will be a bit dated now.

4. "Nagoya is a quagmire" - it has been so poorly negotiated that many think the CBD will have to scrap it and start with a new protocol within a decade. It is not a treaty. It functions more with market principles and gives huge power imbalances to corporations over Indigenous peoples. The mechanisms for Indigenous peoples to respond to biopiracy or other infringements on their rights are very weak.
5. On October 14 Civil Society gave a "Captain Hook" award to Canada and the UK for promotion of biopiracy and working against regulation of the synthetic biology industry at the UN's COP 12.