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**Promotion and protection of all human rights, civil,  
political, economic, social and cultural rights,  
including the right to development**

### **Report of the Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes on his visit to Canada**

**Comments by the State\***

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\* The present document is being issued without formal editing.

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## **Report of the Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes (Advance Unedited Version) — Comments from Canadian authorities**

We have received for comments an advance unedited version of the report of the UN Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes after his visit to Canada in May-June 2019.

As a federated state, provinces and territories in Canada have jurisdictions over several environmental issues. Enclosed follows some comments and proposals for change in the report from the Canadian Nuclear Safety Commission, Crown-Indigenous Relations and Northern Affairs Canada, Environment and Climate Change Canada, Global Affairs Canada, Health Canada, Indigenous Services Canada, Natural Resources Canada, and the provinces of Alberta, British Columbia, Ontario, Manitoba and Quebec.

### **Comments from Canadian Nuclear Safety Commission**

#### **Para 79 & 80, comments:**

Article 19 of UNDRIP states: “*States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them.*”

The obligation the report is referring to in paragraph 79 is too broad in that the declaration speaks to states and not to “any measure”, but to “before adopting and implementing legislative or administrative measures”.

Also, the difference between “and obtain their consent” versus “in order to obtain their consent” should be flagged as there is still debate in Canada over whether “free, prior and informed consent” is an obligation to consult or an obligation to gain consent. As the report does note, while Canada has signed onto UNDRIP, the declaration has been incorporated into domestic law only in the province of British Columbia, not to date in the rest of Canada.

### **Comments from Crown-Indigenous Relations and Northern Affairs Canada**

#### **Para 8, 5<sup>th</sup> sentence, comments:**

This sentence should read: “Other examples include involvement of Health Canada, Environment and Climate Change Canada, Crown-Indigenous Relations and Northern Affairs Canada and Indigenous Services Canada.

#### **Para 74, 1<sup>st</sup> sentence, comments:**

This sentence should be more specific. For example: “Initiatives such as the Northern Participant Funding, which supports the informed engagement of Indigenous governments and other northerners in the environmental and socio-economic assessment processes established under land claims agreements in Canada’s three territories, are promising, as are similar programs supporting Indigenous participation in federal environmental assessments in the provinces”.

### **Comments from Environment and Climate Change Canada**

#### **General considerations**

We recommend using Environment and Climate Change Canada throughout the report as it is the Department’s full name.

We recommend using “Indigenous Services Canada” as opposed to “Indigenous Affairs Canada”.

**Para 9, 1<sup>st</sup> sentence, recommended language:**

In some respects, discussed below, the flexibility for provinces and territories to set standards more stringent than the federal requirements has reduced actual and potential exposures to toxic substances.

**Para 9, 2<sup>nd</sup> sentence, comments:**

The report has not yet mentioned federal standards, but talks here about ‘more stringent’ provincial measures. We suggest mentioning CAQQS first: The Canadian Ambient Air Quality Standards (CAAQS), established under CEPA, drive air quality improvements across the country and are reviewed on a regular basis for their adequacy to protect the environment and human health. The CAAQS are underpinned by management levels, which require progressively more stringent action by provinces and territories as air quality approaches the level of the ambient standard.

Please note that it is unclear what pollution “caps” refers to here. We recommend adding some references to clarify if this refers to ambient air quality standards in the province, or emission limits per facility, or caps on total emissions in a province. As currently worded, it would seem to imply province-wide caps on total emissions.

**Para 10, comments:**

Please note that the reference is missing for footnote #6.

The reference to “legally binding or enforceable on reserves” is misleading as there are no federal standards in Canada for drinking water that are legally binding. We recommend that this be clarified with the following statement: “For example, provincial drinking water quality standards are not applicable on reserves, and no federal standards have been set yet.”

**Para 14, 1st sentence, comments:**

We request that that this statement be supported by references to those that have expressed concern, as the statement suggests that Canada’s implementation of the chemicals and waste MEAs is not considered relevant by a report focusing on “toxics” management. Under the Multilateral Environmental Agreements (MEAs)—the Basel, Rotterdam, Stockholm, and Minamata conventions, and the Montreal Protocol—, it is important to note that Canada meets its international obligations and is an active participant.

**Para 16, comments:**

Footnote #11 appears to be an error as it refers to a webpage on parliamentary reviews of the Canadian Environmental Protection Act (CEPA)—there is no discussion around integrating human rights protection in our legal framework on that webpage; only factual information on the most recent and previous parliamentary reviews of CEPA.

**Para 18, comments:**

Missing text after 1st sentence.

**Para 18, 3<sup>rd</sup> sentence, comments:**

We recommend that a reference to Canada’s Multi-Sector Air Pollutants Regulations be included here as they set mandatory national emissions standards to reduce air pollutant emissions from industrial boilers and heaters and stationary engines used by a number of Canadian industries, as well as standards for the cement sector.

**Para 18, 4<sup>th</sup> sentence, comments:**

In reference to “recent years”: Please note that Canadian Environmental Sustainability Indicators have shown an overall reduction of key air pollutants since 1990.

**Para 20, last sentence, comments:**

We request that a reference citing evidence of a silent pandemic in Canada be included; we are not convinced that this statement would apply to Canada.

**Para 26, 2<sup>nd</sup> sentence, suggested language:**

Canada does not have national legally binding ambient air pollution standards, and some provincial emission source specific laws offer considerable flexibility for industry to develop their own standards, for example this can be considered the case in Sarnia, Ontario.

**Para 26, 4<sup>th</sup> sentence, comments:**

In reference to “exceeding odour and health thresholds”: there are Canadian Ambient Air Quality Standards (CAAQS) for NO<sub>x</sub>, ozone, PM<sub>2.5</sub>. Since the document referenced in footnote 29 referencing Alberta thresholds (example from Fort McKay) it would be helpful to clarify this refers to provincial thresholds.

**Para 28, 1<sup>st</sup> sentence, comments:**

Please note that this statement is not factually accurate as the Government of Canada (GoC) makes public information on the risk assessment of substances, and not just for those declared toxic. Risk assessment reports provide information on the potential hazards of substances as well the potential exposures/risks. The information is provided via publications and GoC websites. We recommend that it be conveyed here.

**Para 28, 2<sup>nd</sup> sentence, comments:**

Please note that this is already the case in Canada. Once a substance is added to the toxics list CEPA, Environment and Climate Change Canada must develop and publish a proposed instrument within 2 years, and a final instrument 18 months later. (See sections 91 and 92 of CEPA)

<https://www.canada.ca/en/environment-climate-change/services/canadian-environmental-protection-act-registry/publications/canadian-environmental-protection-act-1999/part-5.html>

**Para 29, last sentence, comments:**

Please note that this statement is factually incorrect as the 2015 National Environmental Effects Monitoring report shows that despite high compliance with the Fisheries Act, 76% of mines have confirmed effects on fish, fish habitat or both. Among these mines, 92% confirmed at least one effect of a magnitude that may be indicative of a higher risk to the environment.

**Para 29, last sentence, recommended language:**

“For example, despite high compliance with the Fisheries Act, 76% of mines have confirmed effects on fish, fish habitat or both. Among these mines, 92% confirmed at least one effect of a magnitude that may be indicative of a higher risk to the environment”.

**Para 32, 4<sup>th</sup> sentence, comments:**

Please note that this does not reflect the Government of Canada’s position. The ENJEU case (referenced in footnote #41) was at the class certification stage (not merits) and there was no discussion by the court around Charter and environmental rights protections. We would therefore recommend changing this part of the sentence to read “While some have argued that the Charter...”

**Para 39, 4<sup>th</sup> sentence, comments:**

This sentence needs to be supported by evidence; most communities are in favor or do not oppose the Project.

**Para 61, 2<sup>nd</sup> sentence, comments:**

Please note that this statement does not take into account the consultations held in November 2018 to broaden the definition of vulnerable populations in the context of federal chemicals management activities. The consultations on a broadened definition of vulnerable populations in the assessment and management of chemicals is part of the efforts for setting new directions and objectives for CMP post 2020. The proposed definition encompasses “individuals, who for occupational reasons, may be exposed to higher levels of chemicals”.

A link with further information here: <https://www.canada.ca/en/health-canada/services/chemical-substances/consulting-future-chemicals-management-canada/defining-vulnerable-populations.html>

Further, occupational health exposure was [consulted on in late 2019](#) for consideration in CEPA reform. We recommend that these considerations be reflected in the statement in question.

**Para 65, 1<sup>st</sup> sentence, comments:**

Please note that in our view this does not take into account Canada’s Hazardous Waste Regulations under Part 7, Division 8 of CEPA, which does not allow the export of hazardous waste to other countries (including, developing countries) if they cannot be managed in an environmentally sound manner.

The paragraph also does not mention the Prior informed consent procedure for hazardous chemicals: Rotterdam Convention and Canada’s efforts through the Rotterdam Convention which can be found at the following link: <https://www.canada.ca/en/environment-climate-change/corporate/international-affairs/partnerships-organizations/informed-consent-hazardous-chemicals-rotterdam.html>. Canada has ratified the Rotterdam Convention and is a strong contributor of notifications of final regulatory action and these notifications have led to the inclusion of a number of substances to Annex III of the Convention, making them subject to the Prior Informed Consent (PIC) procedure.

**Para 65, 2<sup>nd</sup> sentence, comments:**

To be more accurate, we recommend that this sentence should begin with a qualifier that, “Although such movements are controlled under the Basel Convention, exporting hazardous...”

**Para 69, 3<sup>rd</sup> sentence, comments:**

Please note that this sentence does not take into account the information gathering powers under CEPA Part 3. Section 46 of CEPA Part 3 outlines the instances in which the Minister may request information, including outside the review of certain chemicals. <https://laws-lois.justice.gc.ca/eng/acts/c-15.31/page-5.html#h-63687>

**Para 75, last sentence, comments:**

If this is meant to refer to the recommendation made by the House of Commons Standing Committee on Environment and Sustainable Development, then for accuracy, we recommend changing to: “A Parliamentary Committee recommended that “[...] CEPA be amended to require mandatory hazard labelling of all products containing toxic substances”.

**Para 76, 1<sup>st</sup> sentence, comments:**

Please note that the term CEPA review is imprecise. We would recommend changing this to “parliamentary review of CEPA by the House of Commons Standing Committee on Environment and Sustainable Development.”

**Para 76, comments:**

Please note that the footnote here is misleading, as it refers to ECCC’s Follow-up Report to the House of Commons Standing Committee on Environment and Sustainable Development. It suggests that ECCC’s report is the source for Special Rapporteur’s statement regarding

“reports of insufficient public participation in the CEPA review”. We recommend including the correct source or removing the footnote.

**Para 78, comments:**

We suggest that references be provided for the statements made in this paragraph.

**Para 93, comments:**

Please note that reference #148 is missing.

**Para 94, 2<sup>nd</sup> sentence, comments:**

Please note that this sentence does not accurately reflect the case. We recommend that the statement be revised to better align with the following factual description of events:

“In 2019, Canada repatriated 69 containers of waste from the Philippines that had been imported in contravention of Philippine law in 2013 and 2014. The Canadian exporter was not out of compliance with Canadian regulations when the shipment took place. In 2014, the Government of Canada requested that the Canadian exporter bring back the waste shipment, but did not have the legal means at that time to compel the exporter to do so. The Manila Regional Trial Court in the Philippines also ordered the importer to ship the containers back to Canada at their own expense, but they did not comply. Over several years, attempts were also made by the Philippine Government to find local solutions to manage the waste.

Canada paid for the costs of shipping the waste to Canada and its environmentally sound disposal in 2019. In 2016, Canada also strengthened controls for waste exports overseas. Canada continues to work actively to implement additional measures to further prevent illegal shipments of waste overseas.”

**Para 94, last sentence, comments:**

The link in footnote #150 does not say that Indonesia reported illegal shipments. Please see additional comments provided by Global Affairs Canada.

## **Comments from Global Affairs Canada**

**General comments:**

We recommend defining the terms used in the report. This includes “toxic”, “toxics”, “hazardous”, and “harmful”. Canada also recommends using these terms consistently throughout.

**Para 4, 2<sup>nd</sup> sentence; Para 52, 1<sup>st</sup> & 2<sup>nd</sup> sentences; Para 54, 1<sup>st</sup> sentence; Para 66, 1<sup>st</sup> sentence, comments:**

We recommend using well-understood language to refer to rights, obligations, and responsibilities:

- Right to life
- Rights related to a life with dignity
- Right to the highest attainable standard of physical and mental health OR health rights
- Right to liberty and security of the person
  - Right to security of the person
  - Rights related to bodily integrity
- Right to an adequate standard of living for oneself and one’s family, including adequate food, clothing and housing
  - Rights related to adequate food
  - Right to basic sanitation and clean drinking water

- Rights related to adequate housing
- Obligation to ensure to the maximum extent possible the survival and development of the child
- Obligation to provide a child with the opportunity to be heard in any judicial and administrative proceedings affecting the child
- Obligations and responsibilities related to preventing [childhood] exposure to...
- Right to freedom of expression
  - Freedom to seek, receive and impart information and ideas of all kinds

**Para 12, 1<sup>st</sup> sentence, comments:**

In this paragraph, the Special Rapporteur notes that it is the “Canadian Human Rights Act” as well as provincial and territorial human rights codes that form Canada’s human rights framework. Canada recommends a reference to the courts and tribunals that make decisions in relation to these instruments. It is suggested that the paragraph be re-worded as follows: “The Canadian Charter of Rights and Freedoms, the Canadian Human Rights Act and provincial and territorial human rights codes, form the main national human rights framework. ... As discussed below, these instruments and the various courts and tribunals that make decisions in relation to them, lay the foundation for addressing discrimination”.

**Para 13, 1<sup>st</sup> sentence, comments:**

In paragraph 13, the mandate of the Canadian Human Rights Commission (CHRC) is limited on human rights issues relating to *environmental* discrimination. Canada would redraft the first sentence as follows: “However, the CHRC faces various challenges, including limited public awareness of available avenues for filing complaints, and a limited mandate to handle human rights issues relating to environmental discrimination”.

**Para 14, 3<sup>rd</sup> sentence, comments:**

We suggest redrafting the third sentence as the following: “Canada’s international human rights are implemented in law, policies, and programs. Economic, social and cultural rights re not directly actionable in Canadian courts”.

**Para 14, last sentence, comments:**

We suggest redrafting the last sentence as the following: “Thus, the rights related to health, safe water and food, adequate housing, safe and healthy working conditions, and other rights implicated by exposure to toxic substances, do not appear to be directly actionable under Canadian law”.

**Para 32, 5<sup>th</sup> sentence, comments:**

Canada’s Charter has not been read (by the courts) to include environmental rights protections. The recent climate change litigation was at the class certification stage, not the merits. Canada suggests re-drafting this sentence as the following: “While it has been argued that the Charter may be implicitly read...”

**Para 66, 2<sup>nd</sup> sentence, comments:**

The reports incorrectly asserts that Canada’s obligations apply extraterritorially. Canada recommends simply reaffirming the general principle. The following wording is suggested: “Canada takes its human rights obligations very seriously. Canada reaffirms its obligation to respect the human rights of all individuals within its territory and subject to its jurisdiction, without discrimination of any kind”.

**Para 78, 2<sup>nd</sup> sentence, and para 92, last sentence, comments :**

Canada takes violence against Indigenous women and girls very seriously. Canada is very concerned about the allegations in paragraphs 78 and 92 and requests that the Special

Rapporteur provide information about these allegations so that it can be passed to the relevant authorities for investigation, as appropriate.

**Para 79, comments:**

In Canada, the Aboriginal and treaty rights of Indigenous peoples are recognized and affirmed under section 35 of the Constitution Act, 1982 and are constitutionally protected. Canadian courts have elaborated on and clarified the meaning and scope of the protected rights of Indigenous peoples, including in relation to the Crown's legal duty to meaningfully consult, and where appropriate, accommodate when it is contemplating activities that may adversely affect potential or established Aboriginal or treaty rights.

Where Aboriginal title has been established, the Crown must obtain the consent of the Aboriginal title holders in order to develop or use the land, and if consent is not obtained the Crown must justify any proposed incursion under s. 35.

Consistent with the purpose of "free, prior and informed consent", the duty to consult serves to protect the asserted or established rights held by Indigenous peoples in Canada from government action, including for example, where government action is involved in regulating and approving resource development projects. If an Indigenous group is not satisfied with the consultation that has occurred or the accommodations offered, government decisions can be the subject of judicial review by a court. Canadian courts, on judicial review, will assess the adequacy of the consultation process and any accommodation measures. Government decisions and actions may be quashed where the process or outcomes of consultation has been inadequate.

In Canadian law, the duty to consult guarantees a process, not a particular result: there is no duty to reach agreement, but there must be good faith efforts and a commitment to a meaningful process by both the government and the Indigenous group whose asserted or established rights may be adversely impacted. This is consistent with commentary by the UN Special Rapporteur on the Rights of Indigenous Peoples and the Expert Mechanism on the Rights of Indigenous Peoples, which notes that FPIC requires that consultations must be undertaken in good faith with the 'objective' of reaching agreement or achieving consent.

The Government of Canada has committed to introduce legislation to implement the UN Declaration on the Rights of Indigenous Peoples, co-developed with Indigenous peoples, by the end of 2020.

**Para 79, recommended language:**

Canada therefore recommends that paragraph 79 be redrafted as follows: "Canada has a legal duty to meaningfully consult with Indigenous groups, and where appropriate, to accommodate when it is contemplating activities that may adversely affect potential or established Aboriginal or treaty rights, including storage or disposal of hazardous materials in their lands or territories."

**Para 84, 1<sup>st</sup> sentence, comments:**

Canada notes that the Aboriginal and treaty rights of Indigenous peoples are recognized and affirmed under section 35 of the *Constitution Act*, 1982 and are constitutionally protected. Canadian courts have held that, flowing from the constitutional protection given to those rights and grounded in the Honour of the Crown (i.e. honouring the Treaties), governments have a duty to consult, and where appropriate accommodate, when it is contemplating activities that may adversely affect potential or established Aboriginal or treaty rights.

**Para 84, 1<sup>st</sup> sentence, recommended language:**

Accordingly, Canada recommends redrafting the first sentence of paragraph 84 as follows: "The duty to consult is grounded in the Honour of the Crown and derives from section 35 of the Constitution Act, 1982".

**Para 85, 1<sup>st</sup> sentence, comments:**

We recommend clarifying that the victim of a human rights violation has a right to an effective remedy, which may include restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition.

**Para 93, 1<sup>st</sup> sentence, comments:**

The Special Rapporteur is correct that a State must consider its human rights obligations when considering actions/inaction related to hazardous wastes/substances. There are plausible situations where causing or allowing exposure could be a human rights violation. However, there is no IHRL obligation to prevent exposure, etc. It is correct to say that there are obligations *related to* these issues.

Canada also recommends using “responsibility” to describe a State’s moral responsibility or political commitments. “Obligation” must be reserved for binding obligations under treaty or customary international law.

**Para 94, 1<sup>st</sup> sentence, comments:**

While some Canadian containers were alleged to be in violation of the Basel Convention, this was never determined (please see additional context and comments provided by Environment and Climate Change). We strongly disagree with the inclusion of the erroneous claim in the first line that any shipments were “in violation of the Basel Convention.”

**Para 94, 2<sup>nd</sup> sentence, comments:**

It was Canada that repatriated the waste in question, not the Philippines. Therefore, the claim in the second line that the waste was “sent back by the Philippines” is an error in fact. We note that the reference on which this claim is based itself claims that Canada repatriated the waste. Further, the claim that Canada had “failed to compel the business involved to return the waste” is an error in fact. Rather, the Canadian company was dissolved and unable to do so.

The second line misrepresents past events and ongoing efforts by Canada to resolve any issues related to the transboundary shipment of waste to Asia in a timely and collaborative manner. Therefore, we consider the claim that that Canada failed to act “despite repeated protests in importing countries” to be an error in fact.

**Para 94, 2<sup>nd</sup> sentence, recommended language:**

Canada suggests redrafting to the following: “The Government of Canada was unable to compel the business involved to return the waste as the business was dissolved, which was after 5 years repatriated by Canada”

This sentence is to do with the Philippines, so this should be singular – “in one importing country”.

The words “sent back by the Philippines” should be changed to: “returned to Canada”. Canada was in fact responsible for the return of the waste from the Philippines.

**Para 94, last sentence, comments:**

The claim in the third line that “Illegal shipments were also reported in...Indonesia” is an error in fact, as some containers in Indonesia are alleged to contain Canadian waste but showed third countries as the final point of departure before arriving in Indonesia (mainly the US). While there were reports of Canadian waste in Indonesia, we are not aware of any allegations, including in the SR Report’s reference, that any containers in Indonesia were illegal and shipped from Canada.

The footnote here does not refer to any problematic shipments of waste from Canada to Indonesia, and there have not been any reported cases of illegal shipments to Indonesia. It is recommended to delete the reference to Indonesia. For the Malaysia case there was

insufficient information available so far to assess whether or not there was a violation of the Convention. This sentence should be constrained to just the Philippines case.

## **Comments from Health Canada**

### **Para 8, last sentence, comments:**

Not all chemical regulation in Canada falls under CEPA. To improve accuracy for pesticide regulation, there should be a mention in this paragraph on the Pest Control Products Act – and the framework it provides for the protection of human health and the environment.

Jointly managed by Health Canada and Environment and Climate Change Canada, the Chemicals Management Plan (CMP) brings all existing federal chemical programs together under a single strategy. This integrated approach allows the Government of Canada to address various routes of exposure to chronic and acute hazardous substances. It also enables use of the most appropriate management tools among a full suite of federal laws, which include the Canadian Environmental Protection Act, 1999 (CEPA), the Canada Consumer Product Safety Act (CCPSA), the Food and Drugs Act (F&DA), the Pest Control Products Act (PCPA), the Fisheries Act and the Forestry Act

### **Para 22, last sentence, comments:**

This number was compiled by the David Suzuki Foundation prior to the coming into force of Canada's Pest Control Products Incident Reporting Regulations in 2007. Between 2007 and 2017, over 20 000 incidents were reported to Health Canada's Pest Management Regulatory Agency (PMRA), the majority of which were domestic animal incidents of minor to moderate severity. In 2017-18, 198 human incident reports were submitted to Health Canada's PMRA.

<https://www.canada.ca/en/health-canada/services/consumer-product-safety/reports-publications/pesticides-pest-management/corporate-plans-reports/report-pesticide-incidents.html>

### **Para 23, 1<sup>st</sup> sentence, comments:**

It would be good to have a reference to further support this statement or specify which hazardous substance is being referred to here—unless this is meant to only speak to air pollutants (i.e. PM2.5).

### **Para 25, last sentence, comments:**

All products currently registered and used in Canada must have acceptable risk. Special review provisions exist where if all uses of an active ingredient are banned in an OECD country, Health Canada must proceed with a Special Review. Also, at any time, if the Minister of Health becomes aware of information that would indicate potential unacceptable health or environmental risk, a Special Review can be initiated.

<https://www.canada.ca/en/health-canada/services/consumer-product-safety/reports-publications/pesticides-pest-management/policies-guidelines/regulatory-directive/2014/dir2014-01-approach-special-reviews-dir2014-01.html>

### **Para 25, 1<sup>st</sup> sentence, comments:**

In reference to “unlike occupational laws”, it is unclear what occupational laws do not require exposure to be considered or require risk assessments to be completed in Canada.

### **Para 30, 2<sup>nd</sup> sentence, comments:**

Children and infants are considered as a specific vulnerable sub-population in the risk assessments conducted by Health Canada for pest control products. A pest control product will only be registered if that risk is acceptable, including the risk of Pest Control Products used on food.

**Para 38, 1<sup>st</sup> sentence, comments:**

Rather than “Mercury exposure poses various health risks, especially to children whose developing nervous systems are extremely sensitive”, it should be mentioned: “...especially to the fetus and children whose nervous systems are...”.

**Para 43, last sentence, comments:**

Information was supplied to the Special Rapporteur on the consultations with Canadians: Canadians are consulted for all proposed major pesticide registration decisions, such as new registrations or major new uses of a pesticide, re-evaluations or special reviews. The consultation documents outline major findings of the evaluations and the proposed decisions, and are made available on the Health Canada website. The use of registered pesticides in forestry applications on traditional territories of Indigenous groups falls under provincial jurisdiction, and each province has its own set of regulations and requirements.

**Para 53, 1<sup>st</sup> sentence, comments:**

This is not technically true: children and adults likely absorb chemicals to the same extent, both dermally and via inhalation.

**Para 57, comments:**

Wording from Existing Substances, HC 57. “Varying gender specific activities contribute to differentiated burdens and impacts from toxic exposures. [1] CEPA reviews strive to incorporate the best available science to assess the potential for vulnerability to individuals whose activities might place them at higher risk of harm from chemical exposures. These considerations include sub-population specific exposure data and the use of additional safety factors to protect vulnerable populations where appropriate. While various chemicals may inordinately affect women (including many endocrine-modulating chemicals), these possible effects are routinely factored into CEPA screening assessments.

**Para 61, 1<sup>st</sup> sentence, recommended language:**

The Chemicals Management Plan could help to better protect workers. Canada does not recognize workers as a vulnerable population under the Plan, despite workers being one of the most vulnerable groups to toxic chemicals.

**Para 68, last sentence, comments:**

It is not entirely clear what this is referring to—most likely a reference to the formulants in registered pest control products. All formulants are considered by scientists at Health Canada. The end product must be acceptable for use, including if it is to be mixed with another pest control product.

**Para 81, 2<sup>nd</sup> sentence, comments:**

Health Canada has corresponded with a number of stakeholders on the re-evaluation of glyphosate – and when used according to label is acceptable for use. The actual use of the product in specific situations, such as forestry, is determined by the provincial government.

**Para 82, 2<sup>nd</sup> sentence, comments:**

Canadians are consulted for all proposed major pesticide registration decisions, such as new registrations or major new uses of a pesticide, re-evaluations or special reviews. The consultation documents outline major findings of the evaluations and the proposed decisions, and are made available on the Health Canada website. The use of registered pesticides in forestry applications on traditional territories of Indigenous groups falls under provincial jurisdiction, and each province has its own set of regulations and requirements.

**Para 112 (l), comments:**

Health Canada is not aware of this situation occurring in Canada for pesticides.

## **Comments from Indigenous Services Canada**

### **General considerations:**

The term “Indigenous” should be capitalized throughout the report.

### **Para 2, 1<sup>st</sup> sentence, comments:**

It is recommended that “also formerly known as” be added before “Grassy Narrows First Nation”.

### **Para 2, last sentence, comments:**

There is a need to clarify if the term “defenders” is inclusive of environmental activists (Indigenous and non-Indigenous) and other formal roles like legal, public health and/or the military, or only imply Indigenous “land defenders” who are defending their own territories.

### **Para 8, 5<sup>th</sup> sentence, comments:**

This sentence should read: “Other examples include involvement of Health Canada, Environment Canada, and Indigenous Services Canada, as well as the Crown-Indigenous Relations and Northern Affairs Canada

### **Para 10, 2<sup>nd</sup> sentence, comments:**

A reference is needed for this sentence. There is a link to a footnote, which is missing.

### **Para 10, last sentence, comments:**

Evidence supports the contrary. For example, there are more LT DWAs off-reserve than on-reserve.

The Government of Canada is looking to support drinking water regulations in First nations communities and work is ongoing in this regard with the Assembly of First Nations – a First Nations Led Process for New Safe Drinking Water and Wastewater Legislation.

### **Para 14, 2<sup>nd</sup> sentence, comments:**

There is a need to clarify what the correct term for justiciability is.

### **Para 15, 2<sup>nd</sup> sentence, comments:**

The reference for this sentence needs to be clarified, to be made more accessible to readers.

### **Para 20, last sentence, comments:**

There needs to be references to support this statement to help understand what the Special Rapporteur means and have better clarity on the economic costs of childhood exposures.

### **Para 25, last sentence, comments:**

This sentence should be accompanied by examples and a reference.

### **Para 26, last sentence, comments:**

Indigenous community-led initiative should be pluralized.

### **Para 37, first sentence, comments:**

Canada established the Mercury Disability Board over 35 years ago, in 1985. The Mercury Disability Board had a mandate to diagnose and provide monetary compensation for a disability caused by mercury poisoning. As other examples, in 1970 the Ontario government introduced a program to supply Grassy Narrows with fish from uncontaminated waters. Health and Welfare Canada also initiated the mercury surveillance program. The first stage was to monitor First Nations and Inuit populations whose principle food source, fish,

contained high level mercury contamination. Monitoring consisted of blood and/or hair analysis on request.

**Para 37, last sentence, comments:**

Water and soil are not a major source of exposure – consumption of piscivorous fish with methylmercury is.

**Para 38, 2<sup>nd</sup> sentence, comments:**

The quoted report actually says on page 105: “Over 58% of the Grassy Narrows and Wabaseemoong community members examined by Japanese doctors specializing in mercury poisoning have been diagnosed with or are suspected of having Minamata disease, a serious neurological syndrome caused by mercury poisoning.”

The only authority that can determine legitimately and in accordance with Canadian medical professional standards the presence of neurological disease attributable to mercury poisoning in Grassy Narrows and Wabaseemoong is the Mercury Disability Board, which operates in collaboration with communities and employs licensed family physician and a neurologist to conduct assessments.

**Para 39, 2<sup>nd</sup> and 3<sup>rd</sup> sentence, comments:**

This statement does not reflect the work that is being supported in this area, such as the Joint Canada- Alberta Oil Sands monitoring: <https://www.canada.ca/en/environment-climate-change/services/oil-sands-monitoring.html>

**Para 47, 3<sup>rd</sup> sentence, comments:**

This sentence is not accurate—the census had reported on the median income in communities. i.e. “A Canadian Press review of census figures for areas identified as Indigenous communities found about 81 per cent of reserves had median incomes below the low-income measure, which Statistics Canada considers to be \$22,133 for one person.” <https://nationalpost.com/pmn/news-pmn/canada-news-pmn/early-census-figures-show-depth-of-low-incomes-in-indigenous-communities>.

**Para 47, 5<sup>th</sup> sentence, comments:**

The generalized statement that toxic heavy metal exposures are generally higher in Indigenous peoples than in the general Canadian population is not accurate. There is a need to be precise with respect to the findings as results differ by geographic location and specific heavy metals. Reference(s) should also be provided. Reports can be found at [www.fnfnes.ca](http://www.fnfnes.ca).

**Para 47, last sentence, comments:**

This sentence should be referenced.

**Para 56, 2<sup>nd</sup> sentence, comments:**

The word “programmes” should be removed.

**Para 81, first sentence, comments:**

There is a need to clarify which project this sentence is in reference to and provide examples.

## **Comments from Natural Resources Canada**

**General comments:**

References to “Trans Mountain Pipeline” should be corrected to “Trans Mountain Pipeline Expansion”.

**Para 25, 3<sup>rd</sup> sentence, comments:**

It should be noted that Canada's Chemistry industry has committed to responsible, ethical, safe and sustainable manufacturing for the past 30 years under the Responsible Care initiative, which is U.N.-recognized. Canadian chemistry companies adhere to the Responsible Care Ethic and Principles for Sustainability and the Responsible Care Codes, which cover all business elements and the lifecycle of produced products. Companies are evaluated every three years to ensure compliance.

**Para 26, 3<sup>rd</sup> sentence, comments:**

This sentence should read: "For example, concerning the oil sands industry, between 2010 and 2014, some substances were present in the air in concentrations exceeding health thresholds, elevating the likelihood of adverse health impacts". As per p.15 of the report being quoted "An odour complaint does not represent a noncompliance because odours are not a specific regulatory requirement within EPEA approvals". When thresholds are compared in the report, it is to thresholds from other jurisdictions as a comparison.

**Para 29, last sentence, comments:**

The study referenced was for metal mines only, and did not address oil sands mining, which have different regulatory criteria (oil sands mines are not allowed to release effluent, whereas metal mines are allowed within limits). By not including the word "metal", it implies that these results apply to oil sands mining since reference was made to the massive tailings ponds in Alberta.

**Para 39, 3<sup>rd</sup> sentence, comments:**

Initial 2009 study on Fort Chipewyan Cancer rates:

<https://www.albertahealthservices.ca/assets/news/rls/ne-rls-2009-02-06-fort-chipewyan-study.pdf>. Cancer incidence in a 2014 Fort Chipewyan follow-up report found that the total number of cancers and most types of cancers in the Fort Chipewyan area were the same as rates in the rest of Alberta. As indicated, different cancers can be result of a variety of risk factors. No childhood cancer cases were diagnosed in Fort Chipewyan between 1992 and 2011. The absence of childhood cancer rates is reassuring, as children are more vulnerable than adults to carcinogens and environmental exposures.

<https://www.albertahealthservices.ca/assets/healthinfo/poph/hi-poph-surv-cancer-overview-fort-chip-2014-03-24.pdf>

<https://www.albertahealthservices.ca/assets/healthinfo/poph/hi-poph-surv-cancer-appendix-i-fort-chip-2014-02-07.pdf>

**Para 39, 4<sup>th</sup> sentence, comments:**

This statement is not substantiated, as it is not evident there is a link between TMX and health risks. If the concern is oil sands growth, without pipelines, such as TMX, crude oil would still be shipped via other means such as rail. It is recommended that the sentence be deleted.

While opposed by some Indigenous groups, TMX is supported by the majority of the groups along the right of way, including 56 groups with signed impact benefit agreements. Potential health risks from the project have been thoroughly analyzed through the review process by expert administrative agencies. Mitigation measures are in place for potential risks of air land and water and multi-billion-dollar plans are in place for baseline studies, species recovery, studying and mitigating cumulative impacts and Indigenous capacity building.

**Para 45, first sentence, comments:**

The Trans Mountain Expansion project was subject to a five-year review process and a lengthy consultation and accommodation process with Indigenous groups. The majority of groups along the right of way supports the project.

**Para 91, 5<sup>th</sup> sentence, comments:**

The report referenced (footnote #147) is focused on the thousands of conventional oil and gas wells, and not oil sands facilities. Oil sands projects are designed to operate over decades and almost all are still active sites. Restoration and remediation work has begun in the oil sands, but the reclaimed area is still small since most is still in active use. Oil sands development is subject to environmental standards that are among the most stringent in the world. The Government of Alberta requires that companies remediate and reclaim 100 percent of the land after the oil sands have been extracted. Reclamation means that land is returned to a self-sustaining ecosystem with local vegetation and wildlife. It is recommended that “including at the oil sands in Alberta” is changed to “including conventional oil and natural gas wells in Alberta”.

**Comments from the province of Alberta****General considerations:**

There is a need to ensure the report is clear on which government the author is referring to throughout the report.

The term “tar sands” and “oil sands” are used inconsistently. The Government of Alberta’s preferred term is “oil sands”.

There are many First Nations, such as the Fort McKay First Nation, that are supportive of pipeline projects, including the TransMountain Expansion project.

There are instances where statements in the report are not substantiated with reference, and allegations that are not proven with facts. For example, allegations are made (paragraphs 78 and 92) regarding the disappearance of an Indigenous woman, inferring that the disappearance is related to concerns she raised of exposure to toxic pollution from oil sands operations. These allegations are made without documentation or proof.

**Para 10, comments:**

Drinking water on federal lands including reservations is the sole responsibility of the Federal Government and drinking water off-reserve is the responsibility of the provincial government, unless other arrangements have been made. Safe Drinking Water for First Nations Act (2013) published by Indigenous Services of Canada <https://www.sac-isc.gc.ca/eng/1330528512623/1533729830801>

**Para 26, 4<sup>th</sup> sentence, comments:**

A reference to the Government of Alberta would provide more context, as the federal government is not the only entity working on this issue. For example, through Oil Sands Community Odour Monitoring Program; a voluntary program set up by the Wood Buffalo Environmental Association to better understand ambient air quality in the region. Additional examples include: <https://www.aer.ca/protecting-what-matters/reporting-on-our-progress/improving-air-quality-and-odours-in-fort-mckay/status-of-recommendations.html>

**Para 29, last sentence, comments:**

A distinction between oil sands operations and metal mines is required. It needs to be clear that these figures are specific to metal mines (based on reference 33). Because the paragraph refers to Alberta tailings ponds at the beginning, this could be misinterpreted as oil sands mines. It is implied that scientifically confirmed numbers from metal mines (which are permitted to release treated effluent to the environment) may indicate contamination of surface water by oil sands mines (which are not permitted).

**Para 39, comments:**

Alberta Health has been working with the communities for years to develop an appropriate approach to community health status assessment that incorporates the considerations of all parties within the communities and continues to work with the communities to address their

concerns. As a new update, Alberta Health is successfully launching a community health assessment in cooperation with Fort McKay First Nation and Fort McKay Metis in June 2020.

**Para 39, 2<sup>nd</sup> sentence, comments:**

The Government of Alberta works regularly with the community of Fort Chipewyan on their concerns related to the impacts of the Oil Sands including the two First Nations and a Métis organization which represent different groups of individuals living in the community. Following four years of discussions commencing in 2016, the First Nations and Metis organization in Fort Chipewyan did not reach an agreement to proceed on a partnership with the Alberta government to launch the Fort Chipewyan Community Health Action Plan. The Government of Alberta is committed to discussions with the community parties and the Government of Canada to collaboratively develop a health study that meets the needs of the communities (based on the availability of funding).

The reference to Fort McMurray, Fort MacKay and Fort Chipewyan (Fort Chip) should be clarified, whether these statements are from or about the population centres or the First Nations. Fort McMurray, Fort MacKay and Fort Chipewyan are population centres within the Regional Municipality of Wood Buffalo. There is a Fort McMurray First Nation near but not in Fort McMurray, a Fort McKay First Nation (note spelling difference) and two First Nations located at Fort Chipewyan (Mikisew Cree and Athabasca Chipewyan).

Information on evidence to support this claim is not included. The Government of Alberta works regularly with the community of Fort Chipewyan on their concerns related to the impacts of the oil sands.

**Para 39, 2<sup>nd</sup> sentence, suggested language:**

“Fort McMurray, Fort MacKay and Fort Chipewyan (Fort Chip) paint a disturbing picture of health impacts of the oil sands despite increasing evidence of health impacts on local communities.”

**Para 39, 3<sup>rd</sup> sentence, comments:**

References could be added:

[https://landuse.alberta.ca/Forms%20and%20Applications/RFR\\_ACFN%20Reply%20to%20Crown%20Submission%206%20-%20TabD11%20Report\\_2014-08\\_PUBLIC.pdf](https://landuse.alberta.ca/Forms%20and%20Applications/RFR_ACFN%20Reply%20to%20Crown%20Submission%206%20-%20TabD11%20Report_2014-08_PUBLIC.pdf)

**Para 39, last sentence, comments:**

The closest population is the Town of Swan Hills (approx. 12 kilometers.) The closest Indigenous reserve(s) are located approximately 60 km or more from the facility.

The Swan Hills Treatment Centre is a hazardous waste incinerator designed to destroy PCBs from all areas of Canada. This Centre is for all Canadians and is the only one in the country. However, it is not true that it only imports PCB waste. It provides a critical service to many other waste streams that would either have to be stored or landfilled, which could lead to escalating hazards and risks to human and environmental health.

**Para 42, 1<sup>st</sup> sentence, recommended language:**

“Despite suffering from greater exposure levels at some locations Indigenous peoples face considerable challenges in accessing quality healthcare in comparison to non-Indigenous peoples in Canada.”

**Para 44, last sentence, comments:**

First Nations have bylaw-making authority under federal legislation, which extends to “land use” activities such as dumping.

**Para 50, comments:**

Local Indigenous communities have benefited financially through “Impact and Benefits Agreements (IBAs)” with many of the Oil Sands companies. Those IBAs provide Indigenous

communities with preferential hiring at Oil Sands Mine sites, preferential contracting for Indigenous businesses and contractors on oil sands mine sites and direct financial benefits to Indigenous communities from the oil sands producers.

**Para 50, recommended language:**

“For example, some Indigenous peoples amidst the oil sands in Alberta are living in relative poverty, which points to whether the industry is really as beneficial to some communities as has been postulated.”

**Para 68, 1<sup>st</sup> sentence, comments:**

Personal health information is protected under legislation.

**Para 68, 1<sup>st</sup> sentence, recommended language:**

“Non-personal health and safety information should never be confidential.”

**Para 78, comments:**

This paragraph makes sweeping allegations without details or documentation that would allow for verification of the allegations made. Also, this paragraph does not provide consideration of what is, or is not, lawful under Canadian domestic law. In general, in Canada protestors are arrested for protesting in an unlawful manner: violently, on private property, in breach of court order, and such. They are not arrested for protesting as such.

**Para 81, 2 last sentences, comments:**

These two sentences appear to state facts, but no documentation is cited in support.

**Para 84, 1st sentence, comments:**

Honour of the Crown (i.e. honouring the Treaties), not the Constitution.

**Para 89, 2nd sentence, comments:**

This should be clarified. “Laws” are not “recommended.” They are either enforceable, or not law yet.

**Para 92, comments:**

These are serious allegations made without any documentation or proof that would allow verification.

## **Comments from the province of British Columbia**

**General considerations:**

The report does not always distinguish clearly between the federal and provincial or territorial governments. At times reference will be made to ‘the government’ without full context or citations, making it difficult to determine which government is the subject. We presume, for the purposes of our fact check and review, that such examples are directed at the federal government unless a province is specifically mentioned. The final report should more clearly distinguish between the various levels of government.

**Para 10, comments:**

Footnote #6 is missing.

**Para 45, comments:**

The Trans Mountain Expansion project is a federally owned and regulated project. Extensive consultation has been ongoing with First Nations since 2014, and Mutual Benefit Agreements

between Trans Mountain and Indigenous are in place with most of the impacted First Nations. 120 of 129 First Nations affected by the pipeline either approve or do not object to it.

<https://www.kamloopsthisweek.com/news/tk-emlups-simpcw-first-nations-chiefs-call-on-tiny-house-warriors-to-leave-blue-river-protest-camp-1.24163840>

**Para 78, 1<sup>st</sup> sentence, comments:**

The Province has no objection to peaceful protests and law abiding protestors. The Province is also supportive and protects the rights of all people to freely express their opinions in a peaceful manner. Arrests occur, when the Proponent applied for an injunction, which still allows protesting to take place, but establishes a safety perimeter, mostly for the protection of the protestors such that they are not in danger during construction operations.

**Para 89, 2<sup>nd</sup> sentence, comments:**

It is not clear what “recommended laws” refers to. The statement does not seem to accurately reflect B.C. or Canadian legal frameworks, wherein laws and legal requirements are not “recommendations”. B.C. finds it difficult to fact check this statement without better understanding the UNSR’s intent. B.C. would welcome an opportunity to review revisions to this section.

B.C.’s water quality guidelines are not legal requirements, they inform statutory decision-makers when setting legal requirements through permits, authorizations and/or regulations, which are subject to a robust compliance and enforcement framework in B.C.

**Para 89, last sentence, comments:**

B.C. is holding Teck Coal fully accountable for environmental impacts from its operations through strengthened investigations and compliance requirements under the B.C. *Environmental Management Act*.

The B.C. Ministry of Environment and Climate Change Strategy’s Compliance Team administers heightened compliance attention of Teck’s operations in the Elk Valley through an annual compliance plan.

Between Dec. 2016 and January 2020, the ministry conducted approximately 164 compliance verification inspections under the valley-wide permit and other individual mine site discharge permits - either through on-site inspections or data reviews. These inspections resulted in 75 advisories, 34 warnings, two investigation referrals and eight administrative monetary penalty referrals.

There are ongoing investigations related to effluent discharge by Environment and Climate Change Canada and B.C.’s Conservation Officer Server at various Teck Coal operations in the Elk Valley.

**Para 90, comments:**

Mining laws in B.C. changed based on recommendations following investigations into the Mt Polley Tailings Dam failure.

**Para 112 (e), comments:**

The Province has its own safety concerns with respect to Trans Mountain Expansion project, which the Province has stated numerous times. As a federally regulated project, this recommendation is best taken up with the Government of Canada.

## **Comments from the province of Manitoba**

**Para 56, comments:**

The suggestion is that there should be better communication to inform women of childbearing years of the risks associated with hazardous and toxic exposure.

## Comments from the province of Ontario

### Para 26, 2<sup>nd</sup> sentence, comments:

Under Ontario's local air quality regulation, companies can be compliant with regulations by establishing a site specific standard. When this is done, it is not correct to say it impeded enforcement of the standard as the site specific standard is what applies. When they do not comply with their site specific standard, the province is able to address violations.

The statement 'flexibility to develop their own standards' appears to refer to O.R. eg. 419/05. That regulation sets provincial point of impingement standards. Under stringent conditions, a facility request a site-specific standard (s.32) While the facility can propose a standard based on the material that is required for that application (s. 33), the site-specific standard must be approved by the MECP Director (s.35). The discretion to approve standards is considerably constrained (e.g. it is not technically or economically feasible for the facility to comply with the provincial standard, the site-specific standard is as close to the provincial standard as possible, there is no public interest reason to refuse the request) (s. 35). In addition, a public meeting must be held before the request is made. Finally, site specific standards are time limited. O. Reg. 419/05 also has provisions for the government to set technical standards that are both industry and equipment specific (ss. 38-44) While regulated facilities are consulted during the development of technical standards, the MECP sets and publishes the standards.

### Para 37, 1<sup>st</sup> sentence, comments:

The preamble to the English and Wabigoon River Systems Mercury Contamination Settlement Agreement Act, 1986, S.O. 1986, c. 23 demonstrates that Ontario recognized the mercury poisoning, which states as follows: "AND WHEREAS the discharge of such pollutants and governmental actions taken in consequence thereof may have had and may continue to have effects in respect of the social and economic circumstances and the health of the present and future members of the Bands;". The federal Act has the same clause: Grassy Narrows and Islington Indian Bands Mercury Pollution Claims Settlement Act S.C. 1986, c. 23.

Since at least 1985, Ontario (and Canada) have acknowledged the mercury contamination that occurred and the impact it has had on these communities (see preambles to the *English and Wabigoon River Systems Mercury Contamination Settlement Agreement Act, 1986*, SO 1986, c 23 and the *Grassy Narrows and Islington Indian Bands Mercury Pollution Claims Settlement Act, SC 1986, c 23*).

### Para 37, 2<sup>nd</sup> sentence, suggested language:

From 1963 to 1970, a pulp and paper mill released several tons of highly toxic mercury into the water, contaminating the English-Wabigoon River system, including the traditional fish they depended upon.

### Para 37, 2<sup>nd</sup> sentence, comments:

The source cited does not reference game.

### Para 37, two last sentences, comments:

This statement is factually inaccurate. The study referenced recommended additional assessment and did not speak to risks to the communities.

### Para 37, two last sentences, recommended language:

A 2017/2018 assessment of the soil and groundwater at the pulp and paper mill site revealed continued presence of elevated levels of mercury, on the site; however additional work is required to determine the extent of mercury contamination at the site and the significance of its movement of the river. Such studies could be included in a risk assessment to confirm claims that these communities are still at risk of exposure due to the failure to remediate contamination for over 50 years (see IV).

**Para 38, 2nd sentence, comments:**

The study referenced in the cited document in the footnote was published in 2011 by Harada et al., and focused on a sample group consisting of 160 adults aged 20 years or older (73 from Grassy Narrows and 87 from Wabaseemoong). The Ministry of Indigenous Affairs of Ontario recommends clarifying the statistic.

**Para 38, 2nd sentence, recommended language:**

“Over 58% of the community members examined by specialist doctors in a 2011 study have or are suspected to have Minamata disease, a serious neurological disease resulting from mercury exposure.”

**Para 44, last sentence, comments:**

Ontario’s Environmental Protection Act has fines up to \$6 million for a first offence of a serious nature under s. 187(3), and \$10 million for subsequent offences.

**Para 79, footnote 126, comments:**

Ministry of Indigenous Affairs of Ontario notes that not all of the articles listed in this footnote reference FPIC and that there are other articles in UNDRIP that do.

**Para 87, 1<sup>st</sup> sentence, comments:**

Ministry of Indigenous Affairs of Ontario notes that Ontario enacted legislation in 1986 that established the Mercury Disability Board and Fund, out of which payments are made to members of Grassy Narrows and Wabaseemoong First Nations who demonstrate symptoms reasonably consistent with mercury poisoning. In 2018, Ontario indexed these benefits to inflation on an ongoing and retroactive basis.

## **Comments from the province of Quebec**

**Para 10, 3<sup>rd</sup> sentence, comments:**

This statement seems incorrect; there are nuances to be made in terms of government responsibilities for drinking water in Indigenous communities. Unless better documented, this example should not be included in the report.

**Para 21, 2<sup>nd</sup> sentence, comments:**

To be nuanced; this data does not take into account the seriousness of the accidents that have occurred.

**Para 43, last sentence, comments:**

In Quebec, in accordance with the commitments made by the Quebec government in its 1994 “Forest Protection Strategy”, chemical insecticides and phytocides, including glyphosate, for management purposes are excluded from interventions in public forests (which represent 92% of the area of Quebec).

**Para 43, last sentence, recommended language:**

“For example, in some jurisdictions, the multidimensional impact of aerial spraying of pesticides such as glyphosate on indigenous territories and lands poses serious threats to their life, health and environment”.

**Para 79, comments:**

Nuance to bring. Canada is effectively fulfilling its obligation to seek the consent of Indigenous communities when it comes to allocating lands that are for their exclusive use. With respect to other lands, Canada fulfills its obligation to consult and, where appropriate,

accommodate Indigenous communities whose rights, established or credibly claimed, may potentially be affected by action planned on the said lands.

**Para 90, 2<sup>nd</sup> sentence, comment:**

Is it possible to specify that no worldwide classification system for dam risk currently exists and that this classification is according to the inventories carried out (or not) by countries?

**Para 91, 4<sup>th</sup> sentence, comments:**

In Quebec, this is enshrined in the Quebec Mining Act  
<http://legisquebec.gouv.qc.ca/en/ShowDoc/cs/M-13.1>

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