

## **SESSION 00-02 OF ALTERNATE REPRESENTATIVES**

### **SUMMARY RECORD**

The Council, represented by its Alternate Representatives, met in Montreal on 10-11 February 2000. Mr. William Nitze (United States) chaired the meeting. Ms. Norine Smith and Mr. José Luis Samaniego represented Canada and Mexico respectively. Ms. Regina Barba represented JPAC and Ms. Janine Ferretti, Executive Director, the Secretariat. Mr. Marc Paquin, Council Secretary, acted as secretary of the session. Other officials of the Parties and the Secretariat were also in attendance (see Annex A for the list of participants).

#### **Item 1 Meeting with the Enforcement Working Group**

The Alternate Representatives met with the Enforcement Working Group (EWG) to discuss the initiatives undertaken by the EWG. The meeting first began with presentations by the EWG on their current initiatives and past accomplishments. The presentations were followed by a discussion between the Alternate Representatives and the EWG.

#### **Item 2 Adoption of the agenda**

The Alternate Representatives adopted the agenda for the session at the beginning of the session based on the provisional agenda. The agenda as approved can be found in Annex B.

#### **Item 3 Report by the Executive Director**

In accordance with the Council Rules of Procedure, the Executive Director reported on Secretariat activities, including on the status of Article 14 submissions, and highlighted matters requesting the attention of the Council. The Executive Director's notes are attached as Annex C.

#### **Item 4 Report by the JPAC Chair**

The JPAC Chair reported on JPAC activities. She urged the Alternate Representatives to approve any outstanding matters related to the 2000–2002 Program Plan so it can be released to the public as soon as possible. She was pleased that the dates for the next Council Session had been confirmed and hoped that the location would be announced soon, all the more so since the contemplated Baltimore/Annapolis area seems accessible, both physically and financially to the public.

On the matter of the Article 14 submission from the Friends of the Oldman River, she expressed JPAC's hope that this matter will finally be resolved during the meeting out of respect for the submitter, who is entitled to a response within a reasonable period of time. Moreover, she hoped that this decision will be consistent with a transparent process and the independent role of the Secretariat.

Regarding the Parties' discussions on further guidance for the development of factual records, Ms. Barba respectfully reminded the Alternate Representatives of JPAC's advice and view that additional experience should be acquired with regard to the factual record process before changes are contemplated.

The JPAC Chair then mentioned JPAC's decision to select "Emerging Trends in North America" as the topic for public meetings with the NACs and GACs this year. Finally, she urged the United States and Canada to complete their appointments to JPAC so JPAC can begin its 2000 round with full membership.

#### **Item 5 Approval of summary records**

The Alternate Representatives approved the summary records of sessions 99-11, 99-12 and 00-01.

#### **Item 6 Approval of 2000-2002 Program Plan and 2000 Program and Budget**

The Alternate Representatives approved the remaining projects of the 2000 Program-Plan.

The Alternate Representatives were then updated on the status of the Parties' discussions with regard to Transboundary Environmental Impact Assessment (TEIA) and on the negotiations of the model rules for dispute resolution under NAAEC Part V.

#### **Item 7 2000 regular session of the Council**

The Council reviewed and discussed the draft agenda and agreed on the general format of the provisional program for the 2000 regular session of the Council. They also reviewed and agreed on the format for the public meeting of the Council session. The GSC was instructed to review and clear the documents to be released to the public no later than 1 March 2000.

#### **Item 8 NAAEC Articles 14 and 15**

##### **Item 8.1 Submission no. 97-006: Friends of the Oldman River**

The Alternate Representatives discussed the *Secretariat's Article 15(1) notification to the Council that the development of a factual record is warranted* with regard to submission 97-006. Considering that the Parties are still actively pursuing their consideration of the Secretariat's notification, they agreed to defer their decision on the matter to their next session. They further agreed that the submitters be informed of the status of their submission.

The JPAC Chair undertook to submit these matters to the JPAC for consideration at its next meeting, with a view to providing advice to the Council.

**Item 8.2 Submission no. 97-003: Centre québécois du droit de l'environnement (CQDE)**

The Alternate Representatives discussed the *Secretariat's Article 15(1) notification to the Council that the development of a factual record is warranted* with regard to submission 97-003. Considering that the Parties are still actively pursuing their consideration of the Secretariat's notification, they agreed to defer their decision on the matter to their next session.

**Item 8.3 Assertions of confidentiality and guidance on the development of factual records**

The Alternate Representatives agreed to continue their discussions on these matters at their next meeting, focusing on three issues.

**Item 9 NAAEC Article 10(6) public inquiries – Methanex Corp.**

A revised draft response to the Methanex Corp. inquiry letter was tabled for consideration by the Parties. While the Parties were not ready to clear the draft response, they agreed to make an effort to do so in short order.

**Item 10 Administrative Issues****Item 10.1 NAFEC Selection Committee – Appointment of new members**

Canada and the United States indicated that progress is being made domestically towards the appointment of new members to the NAFEC selection committee.

**Item 10.2 Tax refunds**

Canada assured the Parties that all efforts are being made to reach an early resolution with regard to the *Understanding between the Government of Québec and the CEC*.

On the matter of the tax status of CEC's US employees, the United States indicated it received the information it had requested from the Secretariat and that it was further considering the matter.

**Item 11 Other issues**

No other issues were discussed.

**Item 12 Next sessions of Alternate Representatives**

The Alternate Representatives agreed to meet on 12-13 April 2000 at a location to be determined and to meet again in May in Mexico, in conjunction with the Trade and Environment Officials' meeting at a date to be determined with their Trade counterparts.

The Alternate Representatives further agreed that at their next session, their program discussion will focus on Pollutants and Health issues.

**Item 13    Closure of the session**

The Chair closed the session.

Prepared by Marc Paquin  
Council Secretary

**SESSION 00-02 OF ALTERNATE REPRESENTATIVES  
PROVISIONAL AGENDA**

To be held at the CEC Secretariat on  
Thursday, 10 February 2000 from 9:30 AM to 7:00 PM  
and Friday, 11 February 2000 from 8:30 AM to 3:30 PM

- Item 1 Meeting with the Enforcement Working Group
- Item 2 Adoption of the Agenda
- Item 3 Report by the Executive Director
- Item 4 Report by the Chair of JPAC
- Item 5 Approval of Summary Records
- Item 6 Approval of outstanding activities of the 2000-2002 Program Plan
- Item 7 2000 Regular Session of the Council
- Item 8 NAAEC Articles 14 and 15
- Item 9 NAAEC Article 10(6) public inquiries
- Item 10 Administrative Issues
- Item 11 Other issues
- Item 12 Next sessions of Alternate Representatives
- Item 13 Closure of the session

Notes:

A private dinner for the Alternate Representatives, the Chair of JPAC and the Executive Director is scheduled on Thursday evening at 7:30 PM, Les Continents, Intercontinental Hotel.

**SESSION 00-02 OF ALTERNATE REPRESENTATIVES  
ANNOTATIONS TO THE PROVISIONAL AGENDA**

**Item 1 Meeting with the Enforcement Working Group**

A joint meeting with the Enforcement Working Group is scheduled on Thursday, 10 February from 9:30 to 11:00 AM, to discuss the overall implementation of the Enforcement program, including budget considerations.

**Item 2 Adoption of the agenda**

In accordance with Council Rules of Procedure (R. 9.6), the Council shall adopt the agenda for the session at the beginning of the session based on the provisional agenda. The Alternate Representatives are expected to adopt the agenda for the session.

DOCUMENTS:

- a) Draft annotated agenda (distributed 8-02-00) C/C.01/00-02/AGEN/01/Rev.2

**Item 3 Report by the Executive Director**

In accordance with Council Rules of Procedure (R. 5.3), the Executive Director may make oral and written statements to the Council. The Executive Director will report on Secretariat activities, including on the status of Article 14 submissions, and highlight matters requesting the attention of the Council.

DOCUMENTS:

- a) Notes from the Executive Director (to be handed at the meeting)

**Item 4 Report by the Chair of JPAC**

Under this item the JPAC Chair will provide an update to the Alternate Representatives on JPAC activities.

DOCUMENTS:

- a) JPAC Bulletin and provisional agenda relating to the public session of the JPAC in March in Guadalajara (distributed 2-02-00)

**Item 5 Adoption of summary record**

In accordance with Council Rules of Procedure (R.11), the Executive Director prepared the summary records of sessions 99-11, 99-12 and 00-01 of Alternate Representatives. Speakers have submitted corrections to the summary of their remarks (R.11). The Alternate Representatives are expected to review and approve the summary record.

DOCUMENTS:

- a) Session 99-11 draft Summary Record (distributed 4-02-00) C/C.01/99-11/SR/01/Rev.2  
b) Session 99-12 draft Summary Record (distributed 7-02-00) C/C.01/99-12/SR/01/Rev.1

c) Session 00-01 draft Summary Record (distributed 13-01-00) C/C.01/00-01/SR/01

## **Item 6 Approval of outstanding activities of the 2000-2002 Program Plan**

The Alternate Representatives are expected to review and approve the outstanding projects of the 2000 Program-Plan.

### **DOCUMENT(S):**

- a) Aide-mémoire re: item 4 of Session 00-01 of Alternate Representatives (distributed 13-01-00)
- b) Memorandum dated 20 January 2000 from the Executive Director to the Alternate Representatives (distributed 20-01-00)

### **Item 6.1 North American Pollutant Release and Transfer Register (00.03.05)**

Discussion on Action 5.

### **DOCUMENT(S):**

- a) Revised project description, Rev.5 (distributed 14-01-00)
- b) Language proposed by Canada (see e-mail of 26-01-00 from Canada)

### **Item 6.2 Sound Management of Chemicals (00.03.04):**

Discussion on actions 1 and 2, if necessary.

### **DOCUMENT(S):**

- a) Revised project description (distributed 31-01-00)

### **Item 6.3 Children's Health and the Environment**

Discussion on revised project description, if necessary.

### **DOCUMENT(S):**

- a) Revised project description (distributed 14-01-00)

### **Item 6.4 Cooperation on the Protection of Marine Ecosystems of North America (00.02.03)**

Review budget level, if necessary.

## **Item 7 2000 Regular Session of the Council**

The Parties are expected to initiate discussions on the preparation of the 7<sup>th</sup> Regular Session of the Council scheduled for 12-13 June 2000 in the United States. The host country (United States) is expected to announce the venue for the Session.

As discussion on the program and format of the public session is critical for the release of the information package to the public, to be made no later than 1 March 2000, the Parties are expected to review the general program and discuss the format of the public session. The Parties

are also expected to exchange their views on the provisional agenda and the CEC forum on Children's Health and the Environment in North America.

**DOCUMENTS:**

- a) Provisional agenda (distributed 8-02-00) C/00-00/AGEN/01
- b) General program (distributed 7-02-00) C/00-00/PROG/01/Rev.4
- c) Critical path (distributed 2-02-00) C/ 00-00/PLAN/01/Rev.1
- d) Memo of 21 Jan. 2000 from JPAC Chair to Alternate Representatives (distributed 21-01-00)
- e) JPAC Advice 99-12: Methods to improve the public portion of the Council Session

**Item 8 NAAEC Articles 14 and 15:**

**Item 8.1 Submission no. 97-006: Friends of the Oldman River**

On 19 July 1999, the Secretariat informed the Council that it considered that the submission filed by the Friends of the Oldman River (SEM 97-006) relating to Canada's enforcement practices warranted the development of a factual record. As provided by Article 15(2) of the NAAEC, the Council is expected to decide, by a two-thirds vote, whether or not to instruct the Secretariat to prepare a factual record on the matter.

Canada may wish to update the Parties and the Secretariat on the developments pertaining to a related case before the Federal Court of Canada.

**DOCUMENTS:**

- a) Secretariat's Article 15 determination dated 19 July 1999
- b) Draft Council Resolution (to be drafted by Canada)

**Item 8.2 Submission no. 97-003: Centre québécois du droit de l'environnement (CQDE)**

Pursuant to Guideline 10.2, the Secretariat informed the Council on 29 October 1999 that it considers that submission 97-003 warrants developing a factual record. As provided by Article 15.2 of the NAAEC, Council may, by two-thirds vote, instruct the Secretariat to prepare a factual record on this submission.

**DOCUMENTS:**

- a) Secretariat's Article 15 determination dated 29 October 1999

**Item 8.3 Assertions of confidentiality**

The Alternate Representatives are expected to discuss the issues raised in a memo from the Executive Director dated 13 October 1999 on assertions of confidentiality under the Article 14 process.

- a) Memo dated 13 October 1999 from Executive Director to Alternate Representatives re: Additional Item for Agenda (distributed 14-10-99)



#### **Item 8.4 Guidance on the development of factual records**

The Alternate Representatives are expected to continue their discussion on the elaboration of guidance for the development of factual records and to provide guidance to the Secretariat on Article 15.

##### **DOCUMENTS:**

- a) Letter dated 17 January 2000 from Norine Smith to William Nitze and José Luis Samaniego
- b) Report of the legal group (handed on 18-11-99, at Session 99-11)
- c) Issues paper: A Policy for the CEC Secretariat with respect to the preparation of factual records under Article 15 of NAAEC, revised 16 Nov. 1999 (distributed by Canada)
- d) Secretariat's Internal Procedures for Preparing Factual records (distributed 18-05-99)
- e) JPAC Advice 99-01: Revised guidelines for Submissions on Enforcement Matters

#### **Item 9 NAAEC Article 10(6) public inquiries – Methanex Corp.**

The Alternate Representatives are expected to discuss and finalize the Council's response to the letters from Sierra Club of Canada, Council of Canadians, Greenpeace Canada et al. dated 28 June and 28 December 1999 re: Methanex Corp NAFTA Investor Dispute concerning California's notice to ban gasoline additive MTBE to Promote Clean Water.

##### **DOCUMENT(S):**

- a) Final draft response (to be distributed by the US on 3-02-00)
- b) Letter dated 28 June 1999 from Sierra Club of Canada, Council of Canadians, Greenpeace Canada et al.
- c) Acknowledgement of receipt from J. Ferretti dated 29 July 1999
- d) Letter dated 28 December 1999 from Sierra Club of Canada, Council of Canadians, Greenpeace Canada et al. re Article 14 submission filed by Methanex Corp. (distributed 31-12-99)

#### **Item 10 Administrative Issues**

##### **Item 10.1 NAFEC Selection Committee – Appointment of new members**

The NAFEC Selection Committee is comprised of 6 members, two from each country, who were appointed by the Council on 2 May 1996 for a two-year term. The quorum for the committee consists of 4 members, with a minimum of one from each country. As per the Memorandum from the Secretariat addressed to the Alternate Representatives on 20 January 2000, Canada and the United States are asked to each appoint a new member to serve on the NAFEC Selection Committee as soon as possible, and the three Parties are asked to each appoint another new member prior to the end of 2000.

##### **DOCUMENT(S):**

- a) Memo from NAFEC Coordinator to Alternate Representatives dated 20 January 2000 (distributed 20-01-00)
- b) NAFEC Administration and Funding Guidelines
- c) 2000 call for proposals (distributed 14 January 2000)

## **Item 10.2 Tax refunds**

Pursuant to Council Resolution 95-04, the Secretariat forwarded to the Parties, on 28 April 1999, a revised version of the proposed Understanding between the Government of Québec and the CEC concerning Immunities, Tax Privileges and Courtesies for review and approval. On 10 January 2000, the Government of Québec provided the Secretariat with a revised version of the Understanding, copy of which was forwarded to Canada on 28 January 2000 for review. Canada is expected to provide an update on its review and approval process of said Understanding. The Government of Québec is awaiting the signature of the above agreement in order to reimburse to the CEC approximately C\$1,000,000 in sales tax and to formalize the current ad-hoc arrangements regarding provincial health insurance, drivers licenses, English education rights, etc.

### **DOCUMENTS:**

- a) Proposed Understanding between the Government of Québec and the CEC concerning immunities, tax privileges and courtesies, 15 April 1999 draft with revisions dated 20 April 1999 (distributed 28-04-99)
- b) Letter dated 17 May 1999 from Environment Canada
- c) Letter dated 15 July 1999 from Semarnap
- d) Council Resolution 95-04

## **Item 11 Other issues**

At the time of writing the Secretariat had no issue to propose under this item.

## **Item 12 Next sessions of Alternate Representatives**

In accordance with the proposed schedule of sessions for the year 2000, the next session of Alternate Representatives will be held in Montreal on 12-13 April 2000.

In accordance with the CEC's revised policy on interpretation at meetings, the Alternate Representatives are invited to assess interpretation requirements for the 12-13 April session and to advise whether interpretation in one or two languages may be waived for that particular meeting.

### **DOCUMENTS:**

- a) Schedule of sessions of Alternate Representatives for 2000 (distributed 8-02-00) C/C.01/99-11/PLAN/01/Rev.6

## **Item 13 Closure of the session**

The Chairperson is expected to close the session.

SESSION 00-02 OF ALTERNATE REPRESENTATIVES  
Montreal, Canada, 10-11 February 2000

**Delegations List**

CANADA

**Alternate Representative** Norine Smith, Environment Canada  
Christine Guay, Environment Canada  
Jenna MacKay-Alie, Environment Canada  
Ron Burnett, Environment Canada  
Rita Cerutti, Environment Canada  
Denis Langlois, DFAIT  
Carol Smith-Wright, DFAIT  
Victoria Berry, Environment Canada  
Jean Couture, Ministère de l'environnement du Québec

MEXICO

**Alternate Representative** José Luis Samaniego, Semarnap  
Mario Aguilar, Semarnap  
Véronique Déli, Semarnap  
Luis Gonzales, Secofi  
Hector Márquez, Secofi

UNITED STATES

**Alternate Representative** William Nitze, EPA Office of International Activities  
Lorry Frigerio, EPA Office of International Environmental Policy  
Anne Rowley, International Environmental Law Office  
Milton Drucker, Department of State  
Laura Lochman, Department of State  
Russell Smith, Department of State

**JPAC**

Jonathan Plaut, Chair of JPAC  
Manon, Pepin, JPAC Coordinator  
Lorraine Brooke, Consultant

**Notes for Report of the Executive Director**  
**Meeting of the Alternate Representatives**  
*February 10-11, 2000*

PROGRAM

***Trade and Environment***

Let me begin by underlining the important progress the parties have made at the December 10(6) trade-environment officials meeting. We are confident that the four decisions taken at that meeting represent an important step towards achieving the kind of institutional cooperation contemplated by that provision of the side agreement – namely (1) that Parties will submit to the Secretariat three examples each of the use of precaution in domestic regulations; (2) that the Secretariat will undertake work in the technical area related to environmental labeling, and report back to the parties in the coming months; (3) that the CEC and the relevant working groups of the NAFTA Free Trade Commission dealing with labeling will meet together in the coming months; and (4) the CEC will organize a second workshop of experts in May, in Mexico, immediately prior to the next meeting of the 10(6) Group.

Ours is a very tight schedule. We have contacted all the parties to receive your three examples of the precautionary approach. I would reiterate that if we are going to have something for you to look at in May, then we need to have these examples submitted from you in the next couple of weeks. This also holds true for organizing both a joint meeting with the FTC, as well as another workshop. From our side, we are pushing ahead, as instructed, with compiling technical information related to environmental criteria of environmental labels and certification schemes in North America. The sooner we can fix a date for this joint meeting, obviously the better. If the Parties would like assistance in developing the examples from domestic practice, Scott has offered to help out.

The second main area I want to highlight under trade-environment is the preparations for the *Symposium on Assessing the Environmental Effects of Trade*. The closing date for the Call for Papers has passed, and we are just beginning to look at the submissions now. I recall from our previous discussions that both the US and Canada have expressed an interest in submitting a paper to the Symposium. To that end, I would be grateful if you could advise us of your intention to do so, as well as the topic and the methods used. I would also suggest that, in keeping with the rules set by everyone, governments intending to make a presentation send to us a written submission, which can be read by participants prior to the meeting. I hope to have some options for dates presented to you in the coming week, but we are looking at the second half of October.

A couple of other points. First, the preparations for the meeting on Shade Coffee, scheduled to be held at the end of March in Oaxaca, are moving ahead nicely. There is a lot of interest from different actors in this market, and we will be focusing efforts on labeling and certification, as well as mutual recognition and financing. We are placing a lot of effort into this area, in part because coffee is obviously an important market and an important example of linking conservation of biodiversity with sustainable use, and in part because the lessons of shade-grown

coffee are proving valuable in examining other win-win links. And that has been the purpose of this project from the start. In a short period of time the CEC has become a significant player in the area of green goods and services. Just last week, Dunkin Donuts contacted us in connection with their idea of perhaps selling shade coffee at thousands of their shops. .

We are looking at sustainable tourism and trade in wildlife at least partly in the context of the lessons learned from Shade Coffee. In the wildlife area, two weeks ago the government working party agreed that the CEC will examine conservation and sustainable use, including trade, in one species – Palm – and we are integrating this work with biodiversity.

Finally, this is to advise you that the draft report on CDM should be ready by the beginning of April. We are beginning now to see how the lessons learned from this report – which concentrates on CDM opportunities in the following sectors – electricity, land management, including forestry and agriculture, and steel – can be integrated with the CEC’s work in identifying financial opportunities in the environmental sector.

### ***Biodiversity***

Work is progressing well in developing a strategic approach to the CEC’s work in conserving biodiversity. Parties have received the first draft of the Integrated Baseline Report Summary — *Securing the Continent’s Biological Wealth: Towards Effective Biodiversity Conservation in North America*. This report represents the analytical foundation for the development of the CEC strategy for Biodiversity Conservation. The findings of the report will be presented to the officials of the three wildlife agencies at the upcoming Trilateral Committee meeting in Texas on February 15 and 16. Officials of the wildlife agencies will be asked to review the conclusions and recommendations with a view to prioritize the steps recommended in the report. As well, a draft of the report on 15 species of common conservation concerns will be distributed to the Parties and members of the trilateral group for their discussion. We hope to identify a series of actions that the CEC can undertake in collaboration with the Trilateral Committee at this meeting. Other CEC initiatives, which we will present for discussion by members of the Trilateral Committee, include the North American Wildlife Enforcement Group (NAWEG), and NABIN.

The three NABCI national committees have been created including director-level officials, and widely recognized NGOs and academics. Two of the three national coordinators have been named, Humberto Berlanga (former director of wildlife in Mexico) and David Pashley (VP of American Bird Conservancy). In Canada, Kenneth Cox (Director of the North American Waterfowl Management Plan) is acting as National Coordinator pending a final selection. See attached list of NABCI national committee members.

### ***Pollutants and Health***

The SMOC working group has reviewed the comments provided by NGOs, state and provincial governments, and other organizations on the draft North American Regional Action Plan for Mercury. They have made final revisions to it. The Secretariat is proposing that the Mercury NARAP be presented to the public and officially released at the Council Meeting in June.

In the meantime, work is proceeding in implementing Phase 1 of the Mercury NARAP. INE is holding experts meeting on mercury in Queretaro to coincide with the meeting of the SMOC working group to be also held in Queretaro along with the first meeting of the group responsible for developing a NARAP on monitoring and assessment. Also, the CEC is working with officials from the province of Ontario and Mexican officials to facilitate the loaning of advanced mercury monitoring equipment to assist Mexico in its efforts to assess mercury levels in its territory.

The Consultative Group of the PRTR project is meeting in Arlington, Virginia on 28 February 2000. The views and comments of the industry and NGO representatives will be taken into account in the subsequent *Taking Stock* reports.

The First NA Conference of State and Local Air Quality Managers will take place in North Carolina in early April. In addition to the overall purpose of providing air quality officials from the three countries with the opportunity to discuss key issues of common concern, the conference will help the CEC identify issues and opportunities for cooperation in the context of the CEC work program and will be reflected in the 2001 program plan.

### ***Law and Policy***

Since the Enforcement working group has made its presentation to you this morning, I won't repeat information about their ongoing work.

### **SEM-ARTICLE 14 AND 15 - Current Status of Submissions :**

The status of the thirteen submissions currently under review is as follows:

- One Factual Record is being developed. The Secretariat is currently developing a factual record on submission SEM-97-001/ B.C. Aboriginal Fisheries Commission et al.) as instructed by the Council.
- Awaiting Direction from Council concerning possible development of a factual record for two submissions.
- On 19 July 1999 the Secretariat informed the Council that the Secretariat considers that SEM-97-006/The Friends of the Oldman River, warrants developing a factual record and pursuant to Guideline 10.2, on 23 August 1999 provided notice of this in the Registry and the Public File. As provided by Article 15.2 of the NAAEC, Council may, by two-thirds vote, instruct the Secretariat to prepare a factual record on this submission; and
- On 29 October 1999 the Secretariat informed the Council that the Secretariat considers that SEM-97-003/Centre Québécois du Droit de L'environnement, warrants developing a factual record and pursuant to Guideline 10.2, on 3 December 1999 provided notice of this in the Registry and the Public File. As provided by Article 15.2 of the NAAEC, Council may, by two-thirds vote, instruct the Secretariat to prepare a factual record on this submission.

- Reviewing seven submissions to determine whether development of a factual record is warranted.  
1 submission concerning Canada (SEM-98-004/ Sierra Club of British Columbia, et al.); 1 concerning the U.S. (SEM-98-003/Department of the Planet Earth et al.); and 5 concerning Mexico (SEM-97-007/Instituto de Derecho Ambiental, SEM-98-007/Environmental Health Coalition, et al., SEM-98-006/Grupo Ecológico Manglar A.C., SEM-98-005/Academia Sonorense de Derecho Humanos and SEM-97-002/Comité Pro Limpieza del Río Magdalena) are being reviewed in light of the response to determine whether development of a factual record is warranted. On 13 September 1999 the Secretariat requested additional information from Mexico under Article 21(1)(b), concerning SEM-97-002/Comité Pro Limpieza del Río Magdalena. No response to this request has been received.
- Awaiting Party's Response for one submission. The U.S. response concerning SEM-00-001/ Alliance for the Wild Rockies, et al, is due by March 2000.
- Reviewing two submissions under Article 14(1). On 27 January 2000, Rosa María Escalante filed a submission (SEM-00-001) concerning Mexico that is now being reviewed by the Secretariat to determine whether it meets the criteria of Article 14(1). On 18 October 1999, Methanex Corporation filed a submission (SEM-99-001) concerning the US that is now being reviewed by the Secretariat to determine whether it meets the criteria of Article 14(1).

The attached chart provides a status update on each submission.

### NAFEC

Since its inception, NAFEC has made 127 grants totaling \$4.8 million (US) to community-based initiatives; 86 projects have been completed and 41 remain active. During 2000, an evaluation of NAFEC and projects funded to date will be carried out. We are aiming to have the preliminary results of this evaluation available for Council's review at its meeting in June.

The 2000 Call for Proposals was released in early January. Proposals may be submitted until 31 March 2000 for projects that focus on: (1) Linking biodiversity conservation with trade in green goods and services; or (2) Pollutants and Health-improving public access to information, decision-making and environmental justice. Grants will be announced in late June.

### COMMUNICATIONS

I would like to raise the production of the annual report to your attention. With the recent approvals from the Parties of the CEC's 1998 annual report, we are now able to proceed with its publication. This means we will be mailing out the 1998 annual report during the first days of May 2000. I know you will agree that we can and should do better in distributing the annual report in a timely manner. One of the greatest factor contributing to the delay in the publication of our annual reports is the failure to meet deadlines for providing information to be incorporated in the annual report and

for the review of the annual reports contents. Please see the attached production schedule for the 1998 annual report for details. I have reviewed the publication process with Secretariat Staff and they have developed a schedule which takes into account the timing constraints faced by the parties and balances these with the need to issue an annual report in a timely manner. Attached please find the production schedule as proposed by the Secretariat for the 1999 annual report. I am confident that with your commitment to meet these deadlines, we can issue the 1999 annual report in December 2000.

As you may recall, you received a copy of a letter written by eight organizations outlining their concerns regarding alleged human rights violations in Chiapas on 22 December last year. This letter was submitted to the Secretariat by a group of 35 protesters who occupied the reception area for 2.5 hours expressing their views on NAFTA and human rights. Attached please find a copy of an article covering this event in La Presse.

### **ADMINISTRATION AND FINANCE**

I would like to call your attention to the fact that in the absence of a tax reimbursement agreement between agencies in the US, our US employees face uncertainty regarding their tax status. As well, many US employees maintaining US residence in accordance with the CEC's Headquarters Agreement with Canada are not registered as employees of an international organization and therefore not listed with the State Department as such under the International Organization. This raises questions about the validity of the US residence claims of current CEC staff.

The Government of Quebec sent a new version of the *Understanding with the Government of Quebec* (with the CEC) to us. We forwarded it to Canada on January 28, 2000, with the intent to verify if the changes are in accordance with the comments from the Canadian government. We look forward to hearing whether these changes satisfy any outstanding concerns.

Martha Rosas, Program Manager, has terminated her mandate with the CEC and we are in the final stages of the selection process to fill the vacancy. The same applies for the Controller position (formerly occupied by Jack Person) and the program manager position previously occupied by Sarah Richardson. Furthermore, the recruitment process to fill the position of Nick Nikkila, who will leave us in May 2000, has been initiated.

We have received the first quarterly contributions from the United States and Canada and we are communicating with Mexico in order to obtain their contribution payment schedule. The process of 1999 year end closing is soon to be completed and shortly you will receive the fourth quarterly report which will also be forwarded to the auditors.

### **JUNE COUNCIL SESSION**

Good progress is being made in organizing the June Council Session. The dates of the meeting as agreed upon are 12-13 June 2000. The location has yet to be determined. As soon as we know the location, the Secretariat can proceed with organizing the public events surrounding the Council meeting. The first announcement presenting the program and general information about the meeting will be sent out by 1 March 2000.



A number of matters need to be addressed to ensure a satisfactory level of public participation. They include opportunities for substantive discussion, the manner of interaction with the Ministers and JPAC, workshops to be held on site, and financial assistance among others. JPAC proposed Children's Health and the Environment as a theme. The Secretariat took that into account as it proposed for Council's consideration that a special workshop on that topic be held in parallel to the Council session. This would help stimulate substantive discussion on aspects of the CEC's work. I will be providing you with more detailed information on these issues when you review the Council agenda later in this meeting.

### **Miscellaneous**

Finally, I am distributing a copy of the design of a commemorative token to be issued by the Mexican Treasury and which will be made available through the banks. The cost of printing the token will be covered by the Instituto de Ecología de Guanajuato and any profits will go directly to restoration efforts for the Presa de Silva. The token bears the logo of the CEC in recognition for its role in supporting the restoration and conservation of the watershed.