

SESSION 00-04 OF ALTERNATE REPRESENTATIVES

SUMMARY RECORD

The Council, represented by its Alternate Representatives, met on 15-16 May 2000 at the CEC offices in Montreal, Canada. Mr. William Nitze (United States) chaired the meeting. Ms. Norine Smith and Mr. José Luis Samaniego represented Canada and Mexico respectively. Ms. Regina Barba, Chair of JPAC, 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.

Item 1 Adoption of the agenda

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

Item 2 Report by the Executive Director

The Executive Director reported on Secretariat activities. The Executive Director's notes are attached as Annex C. In addition, the Executive Director distributed the draft 2001-2002 Program Outline prepared by the Secretariat.

Item 3 Report by the Chair of JPAC

The JPAC Chair provided an update to the Alternate Representatives on JPAC activities. The notes of the JPAC Chair are attached as Annex D.

Item 4 Adoption of summary record

The Alternate Representatives approved the summary record of session 00-02. Adoption of summary record 00-03 was postponed to the next session.

Item 5 2000 Regular Session of the Council

The Alternate Representatives made final adjustments to the agenda for 7th Regular Session of the Council scheduled for 12-13 June 2000 in Dallas. The Secretariat was asked to reflect the agreed upon changes in the next iteration of the agenda.

Item 6 NAAEC Articles 14 and 15**Item 6.1 Submissions on Enforcement Matters under Articles 14 and 15 of NAAEC****Item 6.1.1 Submission no. 97-006: Friends of the Oldman River**

Pursuant to Guideline 10(2), the Secretariat informed the Council on 19 July 1999, that it considers that submission 97-006 warrants developing a factual record. Pursuant to Article 15(2) of the NAAEC, the Council, through Council Resolution 00-02, unanimously decided to defer consideration of the Secretariat's notification at this time (Annex E).

Item 6.1.2 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. Pursuant to Article 15(2) of the NAAEC, the Council, through Council Resolution 00-01, adopted by two-thirds vote, the United States dissenting, decided to instruct the Secretariat not to prepare a factual record with respect to that submission (Annex F).

Item 6.1.3 Submission no. 98-007: Environmental Health Coalition

Pursuant to Guideline 10(2), the Secretariat informed the Council on 6 March 2000 that it considers that submission 98-007 warrants developing a factual record. Pursuant to Article 15(2) of the NAAEC, the Council, through Council Resolution 00-03, unanimously decided to instruct the Secretariat to prepare a factual record on that submission. Mexico offered to share with the Parties its response to the submission (Annex G).

Item 6.1.4 Submission no. 97-001: B.C. Aboriginal Fisheries Commission et al.

The Secretariat indicated it had received the Parties' comments on the draft factual record and that it is in the process of incorporating these comments in the final factual record, as appropriate.

Item 6.2 French version of revised Guidelines for Submissions on Enforcement Matters under Articles 14 and 15.

Discussion of this item was postponed to the next session.

Item 6.3 Issues related to Submissions on Enforcement Matters

The Alternate Representatives advanced their discussion on issues related to submissions on enforcement matters and the development of factual records. They stated that it was key to the effective implementation of this institution and therefore in the public interest that the Parties continue to talk through the issues together with a view to avoiding unnecessary misunderstandings. They also provided assurances that no formal process would be adopted without the involvement of JPAC and the Secretariat.

Item 7 NAAEC Article 10(6) public inquiries – Methanex Corp.

Discussion of this item was postponed to the next session.

Item 8 2001-2002 Work Program Outline

This item was discussed under item 2.

Item 9 Other issues

Upon receipt of the report of the meeting of the PRTR consultative group and of the advice from JPAC, the Parties decided that a new group is not needed but that the existing group should be consulted on topics of interest, including further improvements of existing instruments, and on the formation of ad hoc groups or other appropriate mechanisms to address those topics.

Item 10 Next sessions of Alternate Representatives

The Alternate Representatives will meet on 1 June 2000 in Mexico City in the context of the 10(6) Environment and Trade Officials meeting. On 2 June they will hold Session 00-05 in the same location.

Item 11 Closure of the session

The Chair closed the session.

SESSION 00-04 OF ALTERNATE REPRESENTATIVES
Montreal, Canada, 15-16 May 2000

Delegations List

CANADA

Alternate Representative Norine Smith, Environment Canada
Dick Ballhorn, DFAIT
Victoria Berry, Environment Canada
Ron Burnett, Environment Canada
Christine Guay, Environment Canada
Masud Husain, DFAIT
Jenna MacKay-Alie, Environment Canada
Carol Smith-Wright, DFAIT
Sandra Duxbury, Alberta Ministry of Environment
Daryl Hanak, Alberta Ministry of Environment
Jean Couture, Ministère de l'environnement du Québec
Pierre Roy, Ministère de l'Agriculture, des Pêcheries et de
l'Alimentation du Québec

MEXICO

Alternate Representative José Luis Samaniego, Semarnap
Leonora Rueda, Relaciones exteriores
Mario Aguilar, Semarnap
Véronique Déli, Semarnap
Luis Gonzales, Secofi
Ana María Victoria, Semarnap

UNITED STATES

Alternate Representative William Nitze, EPA Office of International Activities
Bob Harris, State Department
Ana Corado, EPA Office of International Environmental Policy
Laura Lochman, Department of State
Russell Smith, Department of State
Susan Lysyshin, US Embassy in Ottawa

JPAC

Regina Barba, Chair of JPAC
Manon, Pepin, JPAC Coordinator
Lorraine Brooke, Consultant

**SESSION 00-04 OF ALTERNATE REPRESENTATIVES
AGENDA**

Held at the CEC Secretariat on Monday, 15 May 2000 from 9:00 AM to 6:00 PM
and Tuesday 16 May from 9:00 AM to 4:00 PM

- Item 1 Adoption of the Agenda
- Item 2 Report by the Executive Director
- Item 3 Report by the Chair of JPAC
- Item 4 Approval of Summary Record
- Item 5 2000 Regular Session of the Council
- Item 6 NAAEC Articles 14 and 15
- Item 7 NAAEC Article 10(6) public inquiries
- Item 8 2001-2002 Program Outline
- Item 9 Other issues
- Item 10 Next sessions of Alternate Representatives
- Item 11 Closure of the session

**SESSION 00-04 OF ALTERNATE REPRESENTATIVES
ANNOTATIONS TO THE AGENDA**

Item 1 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 9-05-00) C/C.01/00-04/AGEN/01/Rev.2

Item 2 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 3 Report by the Chair of JPAC

Under this item the JPAC Chair will provide an update to the Alternate Representatives on JPAC activities. The Alternate Representatives may wish to acknowledge receipt of the recent correspondence from the JPAC Chair and address the issues referred therein.

Canada may wish to provide an update on the nomination of a Canadian member on the JPAC.

DOCUMENTS:

- a) Letter to dated 24 March 2000 from JPAC Chair to Council Re: Revision 2 of the revised guidelines for Submissions on Enforcement Matter (distributed 24-03-00)
- b) Memo dated 12 April 2000 from JPAC Chair to Alternate Representatives re: Meeting on Articles 14 and 15 (distributed 14-04-00)
- c) Letter dated 2 May 2000 from JPAC Chair to the Council (distributed 2-05-00)
- d) Memo dated 12 April 2000 from JPAC Chair to Alternate Representatives re: North American PRTR project (distributed 14-04-00)
- e) Summary Record of Session 00-01 of JPAC (distributed 4-05-00)
- f) Letter dated 9 May 2000 from JPAC Chair to Minister David Anderson (distributed 9-05-00)

Item 4 Adoption of summary record

In accordance with Council Rules of Procedure (R.11), the Executive Director prepared the

summary records of Sessions 00-02 and 00-03 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 00-02 draft Summary Record (distributed 18-02-00) C/C.01/00-02/SR/01/Rev.2
- b) Session 00-03 draft Summary Record (distributed 10-05-00) C/C.01/00-03/SR/01/Rev.2

Item 5 2000 Regular Session of the Council

The Alternate Representatives are expected to make final adjustments relating to the 7th Regular Session of the Council scheduled for 12-13 June 2000 in the United States. In particular, the agenda items for the Council in-camera session and list of announcements should be locked-in.

DOCUMENTS:

- a) Provisional annotated agenda (distributed 9-05-00) C/00-00/AGEN/01/Rev.6
- b) Outline of session communiqué (to be distributed)
- c) General program (distributed 24-04-000) C/00-00/PROG/01/Rev.10
- d) Format and conduct of sessions and side events (distributed 24-04-00)C/00-00/PLAN/02/Rev.2
- e) Critical path (distributed 27-03-00) C/ 00-00/PLAN/01/Rev.2
- f) JPAC Advice 99-12: Methods to improve the public portion of the Council Session

Item 6 NAAEC Articles 14 and 15

Item 6.1 Submissions on Enforcement Matters under Articles 14 and 15 of NAAEC

As expressed by the Alternate Representatives in their last session, the Parties may wish to address the outstanding submissions that are pending a decision from Council as to whether or not to instruct the Secretariat to develop a factual record.

Item 6.1.1 Submission no. 97-006: Friends of the Oldman River

Pursuant to Guideline 10(2), the Secretariat informed the Council on 19 July 1999, that it considers that submission 97-006 warrants developing a factual record. As provided by Article 15(2) of the NAAEC, the Council may, by a two-thirds vote, instruct the Secretariat to prepare a factual record on the matter.

DOCUMENTS:

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

Item 6.1.2 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 97-007 warrants developing a factual record. As provided by Article

15(2) of the NAAEC, Council may, by a two-thirds vote, instruct the Secretariat to prepare a factual record on the matter.

DOCUMENTS:

- a) Secretariat's Article 15 determination dated 29 October 1999
- b) Letter dated 11 April 2000 from CQDE

Item 6.1.3 Submission no. 98-007: Environmental Health Coalition

Pursuant to Guideline 10(2), the Secretariat informed the Council on 6 March 2000 that it considers that submission 98-007 warrants developing a factual record. As provided by Article 15(2) of the NAAEC, Council may, by a two-thirds vote, instruct the Secretariat to prepare a factual record on the matter.

DOCUMENTS:

- a) Secretariat's Article 15 determination dated 6 March 2000
- b) Memo dated 13 October 1999 from Executive Director to Alternate Representatives re: Additional Item for Agenda (distributed 14-10-99)

Item 8.1 Submission no. 97-001: B.C. Aboriginal Fisheries Commission et al.

Pursuant to Article 15(5), the Secretariat submitted to the Council on 28 March 2000 the draft factual record pertaining to Submission no. 97-001: B.C. Aboriginal Fisheries Commission et al. According to the same Article, the Parties had 45 days to provide comments on the accuracy of the draft. [Pursuant to Article 15(6), the Secretariat incorporated, as appropriate, any such comments in the final factual record.

DOCUMENT(S):

- a) Secretariat's Article 15 determination dated 27 April 1998 C/00-00/15-ADV
- b) Council Resolution 98-08 dated 24 June 1998 C/00-00/RES/04/Rev.2

Item 6.2 French version of revised Guidelines for Submissions on Enforcement Matters under Articles 14 and 15.

As agreed to by the Alternate Representatives on 29 June 1999 in Banff (Session 99-08), a linguistic review of the French version of the Guidelines for Submissions on Enforcement Matters under Articles 14 and 15 was conducted on the basis of the English version adopted at the 1999 Regular Session of the Council. The Alternate Representatives are expected to formally adopt the French version.

DOCUMENTS:

- a) French version of the Guidelines for Submissions on Enforcement Matters under Articles 14 and 15 (distributed 11-04-2000)

Item 6.3 Issues related to Submissions on Enforcement Matters

The Alternate Representatives are expected to advance their discussion on issues related to Submissions on Enforcement Matters and the development of factual records. The Alternate Representatives may consider including in their discussion the issues raised in a memo from the Executive Director dated 13 October 1999 on assertions of confidentiality under the Article 14 process.

DOCUMENTS:

- a) Position of the Government of the United States on Legal Issues Relating to Submissions on Enforcement Matters and Factual Records (handed at Session 00-02)
- b) Issues of interpretation and application (distributed by Canada at Session 00-02)
- c) Mexico's draft position paper on questions related to the revised NAAEC and the guidelines on factual record (distributed 6-03-2000)
- d) Letter dated 17 January 2000 from Norine Smith to William Nitze and José Luis Samaniego
- e) Report of the legal group (handed at Session 99-11)
- f) 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)
- g) Letter dated 26 April 2000 from Sierra Legal Defence Fund to Canada's Environment Minister
- h) Memo dated 13 October 1999 from Executive Director to Alternate Representatives re: Additional item for agenda (distributed 14-10-99)
- i) Secretariat's Internal Procedures for Preparing Factual records (distributed 18-05-99)
- j) JPAC Advice 99-01: Revised guidelines for Submissions on Enforcement Matters

Item 7 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) Revised draft response (to be distributed by Mexico)
- 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 8 2001-2002 Program Outline

Under this item, the Executive Director will present the 2000-2001 Program outline prepared by

the Secretariat.

DOCUMENT(S):

- a) 2000-2001 Program Outline (to be distributed)

Item 9 Other issues

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

Item 10 Next sessions of Alternate Representatives

In accordance with the proposed schedule of sessions for the year 2000, a conference call could be organized in early June to advance the Parties discussion on the Council's agenda items. The Alternate Representatives will also meet on 1-2 June 2000 in Mexico in the context of the 10(6) Environment and Trade Officials meeting.

DOCUMENTS:

- a) Schedule of sessions of Alternate Representatives for 2000 (distributed 11-05-00)

C/C.01/99-11/PLAN/01/Rev.9

Item 11 Closure of the session

The Chairperson is expected to close the session.

**Notes for Report of the Executive Director
Meeting of the Alternate Representatives
May 15-16, 2000**

PROGRAM

Program 2001 Outline and budget

The Secretariat has prepared an outline of the 2001-2002 program for the Parties to review and to stimulate public discussion (attached). As you can see from the attached memo, the Secretariat is formally requesting a funding readjustment of 9%.

Trade, Economy and Environment

The fifth meeting of the 10(6) Environment and Trade Officials is scheduled for 1-2 June 2000 in Mexico City. Issues identified at the Fourth meeting last December for the Working Group to discuss include: the application of precaution in the three countries, environmental labeling and certification schemes; and a joint meeting with the NAFTA Free Trade Commission on labeling and certification. The meeting represents an opportunity for the Parties to consider the progress of the 10(6) Working Group. Scott Vaughan has prepared an informal background note outlining options for the Parties to consider related to the future of the 10(6) Working Group.

A meeting will be held on May 24-25, 2000 to review the progress being made on the trends project. The Secretariat will present an interim report at this meeting.

Biodiversity

NABIN now counts on the participation of 53 institutions, 75 datasets, and 45 million data points and potentially about 30% of existing computerized museum data worldwide. In fact, NABIN and its technology, the Species Analyst, have been so successful in creating a true North American Biodiversity Network that the Global Biodiversity Information Facility, a mega-project initiated by the OECD, is recommending it as the model of choice for a world-wide biodiversity science network.

Coffee-growers, distributors, roasters and retailers met to identify ways for environmentally-preferable shade coffee to gain a larger share of the fast-growing specialty coffee market. This meeting follows up on a CEC study published last fall, that there is already considerable consumer interest in shade coffee. The study reported that one of five drinkers in North America is "very interested" in purchasing coffee, indicating the potential for the development of a multi-million dollar market on this continent alone. The study cited health reasons as ranking higher than environmental concerns in shaping consumer preference. The participants in this workshop collectively represented a wide range of expertise spanning the entire coffee production-consumption chain.

A meeting with representatives of indigenous peoples' organizations was held in April. The

meeting identified mechanisms for involving indigenous people in the work of the CEC and how to incorporate their priorities, particularly those related to Biodiversity conservation.

The Baseline Report on Biodiversity in North America with recommendations on future lines of action for the CEC was presented to the Trilateral Committee on Wildlife and Ecosystems, the wildlife agencies of three countries. It has also been distributed to interested organizations for their review and comment. An expert group that will meet in July to determine priority ecoregions will take the comments into account.

The CEC and an expert group for the wildlife agencies of the three countries developed a portfolio of North American Species of Common Concern. The list of species is attached. The portfolio will serve as the basis for cooperation between the CEC and the trilateral committee of Wildlife and Ecosystems. The working group of officials from the three wildlife agencies agreed to focus initial work on grassland ecosystems and specific species such as the borrowing owl and the Grey wolf.

A workshop to launch the development of a North American Network of Marine Protected Areas was held in La Paz, Mexico in March. A trinational steering Committee and seven thematic working groups were created.

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. All comments have been taken into account and the final draft of the mercury NARAP has been translated and transmitted to the Committee of Alternates. The mercury NARAP is ready to be approved and officially released at the Council Meeting in June.

In the meantime, work is proceeding in implementing Phase 1 of the Mercury NARAP. A trinational workshop on analytical methodologies for measuring and monitoring mercury in environmental media and in human tissue was held April 3-5 in Mexico City at CENICA, the National Center for Environmental Research and Training. This workshop preceded the Tenth Regular Meeting of the SMOC Working Group which was held May 5-7 in Querétaro. The Task Force on Environmental Monitoring and Assessment held its first meeting in Montreal 27-28 of March and has tentatively scheduled an expert workshop on 18-19 September immediately prior to the Working Group's 10th Regular Meeting.

The inaugural meeting of North American air pollution management officials was held earlier this month in Asheville, NC. It was attended by over 200 air officials from the three North American countries. Based on the comments received during and since the meeting, it was a very successful effort and is planned to become a perennial activity of the CEC.

The consultative meeting was held in Washington on February 28. Report of the meeting is attached. Of importance to note is that representatives of NGOs and industry organizations alike

had serious questions about the need for the Task Force activity presented in this year's work program. They saw the activity as duplicative and without clear rationale.

The comments period ended on 31 March. Based on comments received we have prepared a Response to Comments document which will be sent out later this week.

Law and Policy

Since the presentation in February by the Enforcement Working Group (EWG) to the Alternate Representatives, the EWG has made progress on several of the initiatives mentioned in its report:

Seminar on Citizen Participation in Enforcement Activities: The Group is finalizing the organization of this seminar to take place in conjunction with the JPAC on Sunday, June 11. Speakers from government and NGOs for the three country panels have been confirmed with the exception of one government representative. Written materials are being prepared by each of the three countries outlining briefly the participation mechanisms available. We expect that all arrangements will be finalized by the end of this week.

EWG Brochure: The text for this general brochure has been finalized and it is awaiting design approval before publication.

CFC Smuggling Training Workshop: The CFC training has been postponed until Spring 2001. Recent contacts with the UNEP office responsible for this type of training in Central and South America have opened up new possibilities to coordinate training, share costs and establish a larger enforcement network to control this illegal trade.

Compliance Indicators: The subgroup is preparing a progress report with the data compiled from the pilot project on hazardous wastes. The report is expected to be ready in October 2000.

EMS Guide on Elements for Improving Environmental Performance and Compliance through Effective EMSs: The EMS task group is meeting on May 15 and 16 to finish reviewing the comments received from the consultation process and to discuss revisions to the document. The Summary of Proceedings from the 1999 Washington Workshop on EMSs has been translated and is awaiting distribution to all participants.

NAWEG: A number of new publications have recently been finalized. A new NAWEG brochure was prepared in time for distribution at the CITES conference in Nairobi. The Directory of Forensic Laboratories has been published and distributed to all North American Laboratories carrying out wildlife forensic work as well as to all participants in the NAWEG forensic conference held in October 1999. A web version is being prepared which will be hosted on the CEC web site at a new section under development to highlight NAWEG work. The two technical bulletins on forensic techniques resulting from the conference have been translated and await printing. Planning is in the final stages for the Seminar on Enforcement Issues related to Trophy Hunting and Game Farming to be held in Monterrey, Mexico on August 21 – 25.

Children's Health and the Environment

Over 100 health and environment professionals met in Toronto at the Symposium on North American Children's Health and the Environment on 10-11 May 2000. A report is being prepared, and three participants will present the results of the symposium to Council in June. As well officials from the three governments met on May 11th to define potential areas of cooperation.

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

- One Factual Record is being developed. A factual record is currently being developed for submission SEM-97-001/B.C. Aboriginal Fisheries Commission et al., as instructed by the Council. On 28 March 2000 the Secretariat submitted the draft factual record to the Council. Parties provided the Secretariat with comments on 11 May 2000 which the Secretariat is reviewing.
- Awaiting Direction from Council concerning possible development of a factual record for three 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;
 - 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; and
 - On 6 March 2000, the Secretariat informed the Council that the Secretariat considers that SEM-98-007/Environmental Health Coalition, et al. warrants developing a factual record and pursuant to Guideline 10.2, on 6 April 2000 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.

One submission concerning Canada (SEM-98-004/ Sierra Club of British Columbia, et al.); two concerning the U.S. (SEM-99-002/ Alliance for the Wild Rockies, et al. and SEM-98-003/Department of the Planet Earth et al.); and four concerning Mexico (SEM-97-007/Instituto de Derecho Ambiental, 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. For SEM-97-002/Comité Pro Limpieza del Río Magdalena, on 13 September 1999 the Secretariat requested additional information from

Mexico under Article 21(1)(b) and for SEM-98-003/ Department of the Planet Earth et al., on 24 March 2000 the Secretariat requested additional information from the United States under Article 21(1)(b). Responses to these requests have not yet been received.

- Awaiting the Party's response for three submissions.
 - On 30 March 2000 the Secretariat requested a response from the United States to SEM-99-001/ Methanex Corporation, pursuant to Article 14(2). The Party shall respond within 30 days or, in exceptional circumstances, within 60 days of delivery of the request, pursuant to Article 14(3).
 - On 17 April 2000, the Secretariat determined that SEM-00-002 warrants consolidation with SEM-99-001, in accordance with section 10.3 of the Guidelines. In accordance with Article 14(2), a response from the United States to SEM-99-001/Methanex Corporation was previously requested on 30 March 2000. The Party shall respond within 30 days or, in exceptional circumstances, within 60 days of delivery of the request, pursuant to Article 14(3).
 - On 8 May 2000, the Secretariat requested a response from Canada to SEM-00-004/ David Suzuki Foundation et al. pursuant to Article 14(2). The Party shall respond within 30 days or, in exceptional circumstances, within 60 days of delivery of the request, pursuant to Article 14(3).
- Reviewing one submission under Article 14(1).
 - On 6 April 2000, Academia Sonorense de Derechos Humanos et al. filed a submission (SEM-00-005) concerning Mexico which is being reviewed by the Secretariat to determine whether it meets the criteria of Article 14(1).
- Two submissions have been dismissed since last Alt. Reps. meeting (-- February 2000):
 - On 12 April 2000 the Secretariat dismissed SEM-00-003/Hudson River Audubon Society of Westchester, Inc. et al. under Article 14(1).
 - On 25 April 2000 the Secretariat dismissed SEM-00-001/Rosa María Escalante under Article 14(1).

NAFEC

The NAFEC Evaluation is proceeding. The evaluation framework was established and approved during a stakeholder meeting held on 25 March 2000 in Guadalajara, Mexico.

Questionnaires were designed and sent out in April, and will be followed by phone and e-mail surveys, review of NAFEC reports and an initial data analysis will be carried out mid to end of May. Preliminary findings will be made available to the second meeting of the Stakeholder Group which will review the data collected in Montreal on 31 March. Potential conclusions and recommendations will be discussed and integrated into a Draft NAFEC Evaluation Report which will be made available for comments to Council and JPAC prior to the Council Session. This Draft will be presented for comments to stakeholders at the CEC Council Session. A final report will be made available to the general public during July.

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 requested to each appoint a new member to serve on the NAFEC Selection Committee as soon as possible, and the three Parties are requested to each appoint another new member prior to the end of 2000.

ADMINISTRATION AND FINANCE

New staff

Recently, the CEC has recruited the following new staff members:

- Jurgen Höth, Program Manager, Conservation of Biodiversity
- Line Carpentier, Program Manager, Environment, Economy and Trade
- Ricardo Embriaco, Controller
- Christine Larson, Media and Public Outreach Officer

Finances

The Secretariat received the second of four scheduled contribution payments from Canada and the United States.

The Parties will be receiving the audited financial statement for 1999. They will also be receiving the first quarterly report for the financial year 2000.

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 over 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.

The United States is invited to provide an update on progress made in relation to the reimbursement by EPA of income tax paid by the CEC on behalf of US citizens employed by the CEC. The expected reimbursement to date amounts to approximately C\$40,000.

Approval of Spanish version of CEC rules

The Alternate Representatives are expected to approve the Spanish version of the CEC rules as well as the related linguistic changes required to the English and French versions.

JUNE COUNCIL SESSION

Council preparations are well underway. Venue and dates are confirmed. Over 125 people have pre-registered. The Secretariat has identified and informed the pre-registrants as to who will receive financial assistance and who will have the opportunity to address the Council. These lists will be remitted to the Parties this week. This meeting of the Alternate Representatives is an opportunity to fine tune the agenda, and become familiarize with the various activities which will be held (public portion, presentation of CEC work program, etc.). As well this is the time for the alternate Representatives to review the draft communiqué and firm up the announcements that will be made in Dallas.

**Notes for Report of the Joint Public Advisory Committee Chair
Meeting of the Alternate Representatives
15–16 May 2000**

On behalf of JPAC, I would like to make the following comments:

- JPAC held its first meeting for 2000 in Guadalajara, Mexico, 23–24 March which was attended by approximately 100 members of the public, representatives from the Parties and the National Advisory Committees and the United States Governmental Advisory Committee. It was preceded by a stakeholder consultation meeting on the CEC Strategic Plan for the Conservation of Biodiversity; a meeting that was organized to receive input from Indigenous peoples. The JPAC Working Group was also in attendance.
- We prepared an Advice to Council on the Strategic Directions for the Conservation of Biodiversity project, which mainly recommended that the “Council confirm the role of the CEC as catalyst, public entry point and information hub in fostering biodiversity conservation within the North American region, as recommended in the *Strategic Directions for the Conservation of Biodiversity: Integrated Baseline Summary Report*.” JPAC also recommended that the “Council members review their national legislative and regulatory regimes with a view toward enhancing capacity and implementation mechanisms for protecting biodiversity.”
- We also prepared an Advice to Council on the draft *Guide: Elements for Improving Environmental Performance and Compliance through Effective Environmental Management System*, calling for revisions based on the comments made by the public and for the document to be returned to JPAC for further review.
- We also held a public plenary discussion on future CEC initiatives. This session resulted in an urgent and strong call for the timely and transparent processing of citizen submissions on enforcement matters under Articles 14 and 15; for improving Mexico’s involvement in the North American Pollutant Release and Transfer Register (PRTR) project; for seeking ways to assist local producers to become certified as “green producers”; and for including water management in the CEC Program Plan. I would like to mention here that in Mexico the water management issue is especially important.
- Especially on the North American PRTR project, I recently sent Council members a memo requesting additional information on adjustments Council has made to the project. JPAC is quite concerned and I would appreciate a reply.
- I would like to take this opportunity today to inform the Council that this failure to receive any reply or acknowledgement of receipt to JPAC letters addressed to Council or to memoranda addressed to the Alternate Representatives (as, for instance, the letters sent to Ministers on 24 March and 2 May on the Articles 14 and 15) is more and more frustrating. It reflects a lack of respect to JPAC and to this institution.

- On another issue, we organized a plenary discussion with the Mexican National Advisory Committee on Emerging Environment Trends in North America. We will have the same plenary on this theme with the US NAC/GAC in June 2000 and with the Canadian NAC in December 2000 to assist JPAC in preparing its Advice to Council on this issue. Our discussion with the Mexican NAC and the public pointed out that land use, demographics and sustainable development are important emerging trends and the CEC has a role to play in influencing policy making.
- On the 2001–2002 Program Outline issue, I would like thank the Secretariat for this new initiative. I think that it is a very useful document for the workshop with the public on North American Priorities and Opportunities for Cooperation during the Council Session. It is this kind of interaction that the public expects. Now the challenge is for the Council and the Secretariat to take into account the comments made by the public when the proposed Program Plan for 2001–2002 is prepared.

Related to this, JPAC counts on expressing directly to the Council members during the June Regular Session our position regarding the 2001–2002 Program Plan and Budget.

- Regarding nominations to JPAC, I would again urge Canada to complete their appointments to JPAC so we can have a complete membership roster for the Council Session in June.
- In addition, during this meeting, we also discussed the issue of the nomination to the North American Fund for Environmental Cooperation (NAFEC) Selection Committee and I wish to remind Council that Peter Berle's term to this committee has ended. JPAC considers it very useful for both JPAC and NAFEC to have a JPAC representative on the Selection Committee and requests that Council maintain the momentum created by Peter Berle's active role in the selection process by considering another JPAC member in this next round of appointments. Please note that Blanca Torres and Liette Vasseur have expressed their interest in being part of this selection committee. We would appreciate a follow-up to this request as soon as possible.
- Regarding Articles 14 and 15, I wish to express, on behalf of JPAC, our concern that we have not yet received a reply to our letter sent to Council on 24 March and to a memorandum sent on 12 April concerning this important issue. There is a strong consensus within JPAC that this matter must be resolved quickly and fairly.

We are very frustrated about the lack of transparency in this process, and are concerned about Council's inability to conclude the discussions on the so-called Revision 2 to the citizen submission process on enforcement matters under Articles 14 and 15 (having ignored our recommendation not to proceed in the first place). We are also very disappointed in the further delays in reaching a decision on the submissions (SEM-97-006: The Friends of the Oldman River, SEM-97-003: Centre québécois du droit de l'environnement, and SEM-98-007: Environmental Health Coalition, et al.). Our fear is that the credibility of the process has been very seriously eroded.

Council's decision to further postpone a face-to-face session is very difficult for JPAC to condone. But most important is that the public from the three countries and the National Advisory Committees have also voiced their concerns in no uncertain terms and a strong coalition against the Parties is building.

When we begin hearing expressions from public like "black hole," "conflict of interest," "self-interest," "secretly negotiating," "reduce the ability of citizens to submit effective petitions," "raise the specter of unjustified new restrictions on the citizen petition process," "secretive and adversarial process," "contrary to the goal of enhancing and promoting environmental protection," "reducing the transparency of the process and the independence of the Secretariat," "nothing less than an assault on the principle of openness and transparency," "we feel that enough is enough," "we demand participation," and "fundamental NAFTA promise has been broken" levied against the process and the Parties, the process is in deep trouble and the credibility of the CEC and NAFTA is seriously in question. The CEC is a unique institution in which the importance of public participation is stated in the Preamble to the Agreement. The Parties must not step back from this principle.

I would like to remind you, the Council, that during the NAFTA negotiations, the public supported this agreement by virtue of its confidence that citizen submissions on enforcement matters under Articles 14 and 15 would give citizens access to a process that would help ensure that enhanced trade did not cause the environment to suffer. Unfortunately, the last negotiations behind closed doors on Revision 2 sent the message to North American citizens that the Parties are trying to control this progress for the benefit of the governments. Moreover, given that Mexico and the United States hold national elections this year, the Parties should not pass this "hot issue" to succeeding administrations.

The demonstrations during the WTO meeting in Seattle made clear that the public has no more patience for the secretive way that international organizations typically manage themselves. It is particularly a pity for the CEC, because this organization was very innovative in its engagement of the public to foster the conservation, protection and enhancement of the North American environment.

In addition, the frustration expressed during the last weeks on the way that the Parties have managed Revision 2 risk compromising the results the American summit scheduled in April 2001. We are at a crossroads and risk much by inaction.

It is time now to open doors. I respectfully ask you to provide us with explanations.

Regina Barba
JPAC Chair for 2000

Montreal, 16 May 2000

COUNCIL RESOLUTION 00-02

Decision by Council regarding Submission on Enforcement Matters (**SEM-97-006**)

THE COUNCIL:

SUPPORTIVE of the process provided for in Articles 14 and 15 of the *North American Agreement on Environmental Cooperation* (NAAEC) regarding submissions on enforcement matters and the preparation of factual records;

CONSIDERING the submission filed on the above-mentioned matter by *The Friends of the Oldman River*, and the response provided by the Government of Canada;

HAVING REVIEWED the notification by the Secretariat of 19 July 1999 to this Council that the development of a factual record is warranted in relation to Submission SEM-97-006;

NOTING that the one specific case presented in the submission, the Sunpine Forest Products Forest Access Road Project, is currently the subject of domestic proceedings in Canada; and

ACKNOWLEDGING the special circumstances of this case, in particular, the developments since the notification involving the domestic proceedings associated with the Sunpine Project;

NOTING that the submitter could provide relevant assertions of fact about other cases of asserted failures to enforce the environmental law identified in the submission;

HEREBY DECIDES:

TO DEFER consideration of the notification at this time; and

TO DIRECT the Secretariat to review expeditiously any relevant assertions of fact about other cases that the submitter may provide, after having given Canada an opportunity to provide a response to those assertions; and to convey its recommendation to Council for a decision.

APPROVED BY THE COUNCIL:

Government of Canada
by Norine Smith

Government of the United Mexican States
by José Luis Samaniego

Government of the United States of America
by William Nitze

Montreal, 16 May 2000

COUNCIL RESOLUTION: 00-01

**Instruction to the Secretariat of the Commission for Environmental Cooperation
Regarding the Assertion that Canada is Failing to Effectively Enforce Certain
Environmental Protection Standards regarding the Agricultural Pollution Emanating from
Livestock Operations (SEM-97-003)**

THE COUNCIL:

SUPPORTIVE of the process provided for in Articles 14 and 15 of the *North American Agreement on Environmental Cooperation* (NAAEC) regarding submissions on enforcement matters and the preparation of factual records;

CONSIDERING the submission filed on the above-mentioned matter by the *Quebec Environmental Law Centre et al.*, and the response provided by the Government of Canada;

NOTING the additional information provided by Canada on 8 April 1998, pursuant to a request by the Secretariat;

HAVING REVIEWED the notification by the Secretariat of 29 October 1999 to this Council that the development of a factual record is warranted in relation to Submission SEM-97-003;

HEREBY DECIDES BY TWO-THIRDS VOTE:

TO INSTRUCT the Secretariat not to prepare a factual record with respect to this submission.

APPROVED BY THE COUNCIL:

Government of Canada
by Norine Smith

Government of the United Mexican States
by José Luis Samaniego

Government of the United States of America
by William A. Nitze

Montreal, 16 May 2000

COUNCIL RESOLUTION 00-03

Instruction to the Secretariat of the Commission for Environmental Cooperation (CEC) with Regard to the Assertion that Mexico is Failing to Effectively Enforce Articles 134 and 170 of The General Law on Ecological Balance and Environmental Protection

THE COUNCIL:

SUPPORTIVE of the process provided for in Articles 14 and 15 of the North American Agreement Environmental Cooperation (NAAEC), regarding the submissions on enforcement matters and the preparation of factual records;

CONSIDERING the submission filed on the above-mentioned matter by the Environmental Health Coalition, et al. and the response provided by the government of the United Mexican States;

HAVING REVIEWED the notification by the Secretariat of 6 March 2000 to this Council that the development of a factual record is warranted in relation to the Submission (SEM-98-007);

HAVING BEEN INFORMED that waste remains at the location of the smelter operation; and

NOTING that the Secretariat will give the Parties advance notice of its overall plan for gathering relevant facts;

HEREBY UNANIMOUSLY DECIDES:

TO INSTRUCT the Secretariat to prepare a factual record on the Submission (SEM-98-007); and

TO DIRECT the Secretariat, in developing the factual record, to consider whether the Party concerned "is failing to effectively enforce its environmental law" since the entry into force of the NAAEC on 1 January 1994. In considering such an alleged failure to effectively enforce, relevant

facts that existed prior to 1 January 1994, may be included in the factual record.

APPROVED BY THE COUNCIL:

Government of Canadá
By Norine Smith

Government of the United Mexican States
By José Luis Samaniego

Government of the United States of America
By William A. Nitze