

**1997 REGULAR SESSION OF COUNCIL
12 June 1997**

SUMMARY RECORD

The Council held its Fourth Regular Session on 12 June 1997 in Pittsburgh, USA. Mr. Fred Hansen (USA) chaired the meeting. Ambassador John Fraser and Mr. Jose Luis Samaniego represented Canada and Mexico, respectively. Mr. Victor Lichtinger, Executive Director of the Secretariat and Ms. Maria Cristina Castro, Chair of JPAC, also participated in the meeting. Mr. Marc Paquin acted as Secretary. The list of delegates is included as Annex A.

Item 1 Opening Remarks

In their opening remarks, the United States indicated that the CEC's Environment and Trade Agenda was in its view the most important issue on the Council's agenda.

Canada conveyed regrets on behalf of the Minister of the Environment, Ms. Christine Stewart, for not being able to attend this very important meeting as a result of having been appointed as Minister of the Environment just the day before the meeting. Canada introduced Alberta's Minister of the Environment, Mr. Ty Lund. On the substance of the meeting, Canada concurred with the United States that the Environment and Trade Agenda should be at the top of the meeting's agenda. Canada also stressed the importance of the Article 14 process and the participation of the public in CEC's activities.

Mexico remarked that in the past three years much work and progress had been achieved. Mexico expressed the view that while the negative implications of trade on the environment have generally been the main direction on the international agenda, the CEC offers an opportunity to also recognize the positive aspects of trade, the CEC being after all a trade organization. Mexico indicated that in its view the experience gained in the past three years on the Article 14 process will allow the Parties to fine tune that process. Mexico also stressed that it is important to get positive results from the on-going work of the CEC and that the CEC will be more relevant if its work is operational.

Item 2 Approval of the Agenda

The Agenda was approved as proposed (see Annex B).

Item 3 Statement by the Executive Director

In his remarks, the Executive Director thanked the United States for its hospitality in hosting this meeting. The Executive Director reflected that within only three years, the CEC has laid the foundations that will contribute to a better understanding of the environmental issues in a North American context and that this achievement has already led to a better understanding of the differences and similarities between the three countries. The Executive Director reflected that the three countries had to first develop a common understanding of the North American environment

and develop a common language to address the regional issues. These initial efforts have already led to concrete results such as the North American Regional Action Plans on dangerous chemicals and the agreement by the Parties to negotiate a legally binding agreement on transboundary environmental impact assessment of proposed projects in order to prevent and solve transborder pollution issues. The Executive Director expressed his confidence that such an agreement can only be beneficial from a social and environmental point of view. The Executive Director also shared his views on the future of the organization.

The Executive Director concluded his remarks by voicing his concern over the absence of two out of the three members of Council and expressed his profound hope that this will not establish a precedent for future Regular Council Sessions, noting the importance for the ministers to meet on an annual basis to share their respective views on the North American environmental agenda. He went on to suggest the possibility for the Parties to consider holding a Special Session of Council during the Fall, at the CEC Secretariat in Montreal to discuss issues such as the Environment and Trade Agenda and the NAAEC Review under Article 10(1)(b).

The United States pledged that Administrator Browner would look forward to a Special Session of Council this Fall and that she would consider this to be a very high priority. Canada indicated it could host such a session at the CEC's Secretariat office for greater convenience.

Item 4 Secretariat Updates (discussion)

Item 4.1 Air Monitoring and Modeling

The Secretariat provided an update to the Council on how this initiative aimed at improving data compatibility of the North American emissions registries and monitoring data is progressing.

Item 4.2 State of the Environment Report

The Secretariat provided an update to the Council on this initiative and indicated that it expected to finalize the State of the Environment Report by early 1998. The Secretariat will present the draft report to Parties in the Fall of 1997 and will then be looking for guidance to finalize the text. In addition, the Secretariat sought assistance from the parties in disseminating the report when completed. The Parties agreed to appoint a review group.

Item 4.3 Climate Change and Energy Efficiency

The Secretariat informed the Council of recent progress on this initiative, including pre-feasibility of four Joint Implementation projects, and a study of GHG emissions trading.

Item 4.4 Transboundary Water Resources

This item was not discussed.

Item 4.5 Reciprocal Access to Courts

This item was not discussed.

Item 4.6 Other updates

The Secretariat informed the Council that it intends to produce a report on the follow-up of all the resolutions signed by the Parties since the creation of the CEC.

Item 5 Council Decisions and Announcements**Item 5.1 NAFTA Environmental Effects Project**

The Council approved the project description for the 1997 NAFTA Environmental Effects Project (see Annex C).

Item 5.2 Trade and Environment Agenda (Working Group)

The Council created an Environment and Trade Working Group to develop the terms of reference for the 1998 NAFTA Effects project and other Article 10(6) related issues. This Working Group will make recommendations to the Council and the Parties agreed that the initial meeting of this group would take place during the Fall of 1997 to enable the Secretariat to start work in 1998 with an approved project.

Item 5.3 Transboundary Environmental Impact Assessment

The Council adopted Resolution 97-03 and agreed to release to the public the draft Agreement on Transboundary Environmental Impact Assessment in September of this year.

Item 5.4 Sound Management of Chemicals (DDT and Chlordane NARAPs)

The Council approved and agreed to publicly release the North American Regional Action Plans (NARAPs) on DDT and Chlordane.

The Secretariat informed Council that the Task Force has completed its review of the Selection Criteria document and that the Working Group will now decide whether or not another round of experts review is necessary before it is transmitted to the Council for approval. It is expected that the Criteria document will be sent to the Council by the end of July for its consideration.

The Council requested that the Secretariat test these criteria by putting a selection of proposed substances through the criteria selection process, including clusters of compounds (such as endocrine disrupters). The Council instructed its Alternate Representatives to request the Secretariat to consider additional substances that could be put through the criteria selection process, some time in the future, in order to ensure that the Council is in a position to make a decision on additional substances at a future session. The Council requested that the final criteria document be accompanied by a roster of substances, for consideration, to be the subject of a regional action plan to be approved by Council by September 15, 1997.

The Secretariat informed the Council on the progress accomplished on the Mercury NARAP and indicated that the document would be reviewed by the Task Force in mid-July and go out for public comments. The Council requested that it receive the Mercury NARAP by 15 September 1997.

Item 5.5 North American Pollutant Release Inventory (NAPRI)

The Council approved Resolution 97-04 (refer to Annex D) with the understanding that a correction if appropriate and/or necessary (with regard to the accuracy of a calculation) would be made prior to publication of the report.

Item 5.6 NAAEC Article 10(1)(b) Review

The Council approved Resolution 97-06 (see Annex E).

Item 5.7 Enforcement Cooperation - Future Cooperation Regarding Environmental Management Systems and Compliance

The Council approved Resolution 97-05 (see Annex F).

Item 5.8 Other topics

The United States suggested that ocean conservation be considered in the development of the 1998 Program and Budget, including sharks and whales.

Item 6 Review of Session Communiqué

This item was not discussed.

Item 7 Article 14 Submissions (update)

This item was not discussed.

Item 8 Review Process of Article 14 Guidelines (decision)

The Parties agreed to initiate the review process of the operation of the Guidelines for Submissions on Enforcement Matters under Articles 14 and 15 of the NAAEC in accordance with section 19.1 of these Guidelines. To initiate the process, the Parties will exchange, no later than 1 September 1997, their proposed modifications to the Guidelines for Submissions on Enforcement Matters under Articles 14 and 15 of the NAAEC. The Parties are welcome to share their proposed modifications in advance should they wish to do so. Further to the exchange of their proposed modifications the Parties will endeavor to develop by 30 September 1997 common proposed modifications to the Guidelines and submit these to the JPAC for a 60-days review process. The ultimate objective is to have agreed upon modifications to the Guidelines by 15 December 1997.

Item 9 Model Rules for NAAEC Part V - Dispute Settlement Provisions

The Parties also agreed to develop Model Rules for Dispute Settlement. To initiate the process, the Parties will exchange, no later than 1 September 1997, their proposed draft Model Rules for Dispute Settlement. The ultimate objective is to have agreed upon Model Rules for Dispute Settlement by the end of 1997.

Item 10 Regional Perspective on Global Environmental Issues

This item was not discussed.

Item 11 Renewal of the Appointment of the Executive Director of the CEC

This item was not discussed.

Item 12 North American Fund for Environmental Cooperation (NAFEC) (update)

The Secretariat informed the Council on the outcome of the operation of the North American Fund for environmental Cooperation (NAFEC) for the first year's two grant cycles.

Item 13 Finalization of Session Communiqué

This item was not discussed.

Item 14 Special Session of Council

The United States proposed that a Special Session of Council be held in the Fall of 1997 and Canada offered to host that Session. The following possible agenda items for that Session were discussed: Environment and Trade Agenda, NAAEC Review, identification of two new chemicals, adoption and public release of the criteria document and a meeting between the Council and JPAC.

The Council concluded by confirming that a Special Session of the Council would be held in the Fall to accelerate progress on important priorities of the CEC.

Item 15 Concluding Remarks

No concluding remarks were made by the participants.

Prepared by: Cristóbal Vignal, Global Strategies and Program Liaison Coordinator
Marc Paquin, Secretary to Council

LIST OF DELEGATES - FOURTH REGULAR SESSION OF COUNCIL
JUNE 11-13, 1997 - PITTSBURGH, USA

CANADA

Council Representative:

Fraser, John A. (The Honourable)
Ambassador for the Environment
Department of Foreign Affairs & International Trade - Canada

Alternate Representative:

Clarke, Anthony
Administrator, Environmental Protection Service
Environment Canada

GSC Representative:

Bowcott, Andy
Manager, North American & Global Strategies
Environment Canada

Ballhorn, Richard
Director
Foreign Affairs & International Trade

Cerutti, Rita
Senior Advisor, North American and Global Strategies
Environment Canada

Connelly, Robert
Vice President
Policy Development - Canada Environmental Assessment Agency

Côté, Louise
Senior Advisor
Departement of Foreign Affairs & International Trade

Hantiuk, Cam
Executive Assistant to the Minister
Alberta Environmental Protection

Hébert, Michel
Director Ministerial Communication Services
Environment Canada

Hicks, Ron

LIST OF DELEGATES - FOURTH REGULAR SESSION OF COUNCIL
JUNE 11-13, 1997 - PITTSBURGH, USA

Assistant Deputy Minister
Alberta Environmental Protection

Hoskin, Wanda
Acting Director / MMS
Natural Resources Canada

Lauriault, Louise
Delegation support
Environment Canada

Lewchuk, Shirley
Senior Advisor, Office of the Ambassador for the Environment
Department of Foreign Affairs & International Trade Canada

Lund, Ty
Minister
Alberta Environmental Protection

Moore, Jennifer
Director General
Regularity Affairs and Program Integration Directorate

Roberge, Stéphane
Legal Advisor
Department of Foreign Affairs & International Trade

Wall, Jim
Director General - International & Economic Issues Directorate, P&C
Environment Canada

LIST OF DELEGATES - FOURTH REGULAR SESSION OF COUNCIL
JUNE 11-13, 1997 - PITTSBURGH, USA

UNITED STATES

Council Representative:

Hanson, Fred
Deputy Administrator
US EPA

Alternate Representative:

Nitze, William
Assistant Administrator
US EPA

GSC Representative:

Wilson, Serena
NAFTA Coordinator
US EPA

DeHaven, Leesa
Delegation Support
US EPA

Frigerio, Lorry
EPA Environmental Attache
US Embassy - Mexico

Hardaker, Robert
US EPA

Haverkamp Jennifer
Assistant US Trade Representative for Environment & Natural Resources
Office of the US Trade Representative

Kauders, Andrew
US EPA

Lieberman, Susan
Western Hemisphere Officer
US Department of Interior

Moreno, Ignacia
Counsel to the Assistant Attorney General
US Department of Justice

LIST OF DELEGATES - FOURTH REGULAR SESSION OF COUNCIL
JUNE 11-13, 1997 - PITTSBURGH, USA

Rowley, Anne
General Attorney
US EPA, Office of General Counsel

Schiffer, Lois
US Department of Justice

Simond, Kathy
Mexican Affairs
US State Department

Smith, Russell
Attorney
Department of Justice, Environment and Natural Resources Div.

LIST OF DELEGATES - FOURTH REGULAR SESSION OF COUNCIL
JUNE 11-13, 1997 - PITTSBURGH, USA

MEXICO

Council Representative:

Carabias Lillo, Julia

Secretaria

SEMARNAP

Alternate Representative:

Samaniego, José Luis

Coordinator of International Affairs

Secretary of Environmental, Natural Resources and Fisheries

GSC Representative:

Aguilar Sanchez, Mario Gilberto

Representante

Embajada de México / SEMARNAP

Azuela de la Cueva, Antonio

Procurador

Procuraduría Federal de Protección al Ambiente

Belausteguigoitia, Juan Carlos

SEMARNAP

Bermúdez Gómez, Alfonso

SEMARNAP

Bolaños, Roberto

SEMARNAP

Gómez Lora, Sergio

Director for International Trade Agreements

SECOFI

Macías Cué, Fernando

SEMARNAP

Malvido, Gabriela

SECOFI

Mercado Villalobos, Carlos

Consejero

LIST OF DELEGATES - FOURTH REGULAR SESSION OF COUNCIL
JUNE 11-13, 1997 - PITTSBURGH, USA

Munguía, Norma
Director for Legal Affairs - UCAI
SEMARNAP

Quadri de la Torre, Gabriel
Presidente del Instituto Nacional de Ecología
INE / SEMARNAP

Tudela Abad, Fernando
Coordinador de Asesores de la C. Secretaria
Secretaria de Medio Ambiente Recursos Naturales y Pesca

1997 Regular Session of Council

Thursday 12 June to Friday 13 June 1997
David L. Lawrence Convention Centre, Pittsburgh, USA

PROVISIONAL AGENDA

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97.05.01 NAFTA Environmental Effects

Director: Greg Block
Project Manager: Sarah Richardson

Project Summary:

This project was designed to aid the Council in fulfilling its obligation to consider on an ongoing basis the environmental effects of NAFTA (NAAEC Article 10(6)(d)) and pursuant to NAAEC Article 10(2)(l). This particular project will conclude at the end of 1997, at which time a group of trade and environment officials from each country will develop and recommend the terms of reference for future work in this area.

This project seeks to make a contribution to the assessment of the environmental effects of NAFTA. It begins by looking at some aspects of trade liberalization and the environment in the economies of Canada, Mexico and the United States during the NAFTA period. By developing and testing hypotheses, the study seeks to analyze whether trade-induced economic changes during the NAFTA period can be related to specific environmental effects. Case studies will be examined to help review these hypotheses. The results of these case studies will help to enrich the knowledge on this matter. The study team will conclude and report its results to the Council in 1997.

Objectives

The general objective of the NAFTA Environmental Effects project is to provide the Council with elements for an analytical approach to assess whether NAFTA's trade liberalization has influenced the Canadian, Mexican and U.S. economies in ways which have had environmental effects and, to the extent possible, to identify any specific environmental effects related to the NAFTA. A specific objective for the project is that any work product clearly and objectively describe the method of analysis and what has and has not been measured.

Rationale

Linking trade effects with environmental effects is an extremely difficult challenge. Furthermore, the fact that NAFTA has been in force only since 1994 makes this link even more difficult to establish. However, building a better understanding of this environment-trade relationship is of importance to the Parties. Indeed, Article 10(6)(d) of the NAAEC provides that "[t]he Council shall cooperate with the NAFTA Free Trade Commission to achieve the environmental goals and objectives of the NAFTA by considering on an ongoing basis the environmental effects of the NAFTA." This NAFTA effects project is an initial research initiative undertaken by the CEC to help contribute to understanding the environment-trade relationship. Because even the identification of NAFTA's specific trade effects is very difficult after only a few years of experience, this project looks more broadly at the effects of trade and related economic and institutional developments within North America on the environment, rather than just those effects narrowly and directly linked to the provisions of NAFTA. It will also contribute to the fulfillment of the obligations of the Council under Article 10(6)(d), which mandates, inter alia, cooperation with the Free Trade Commission, by ensuring that the specialized expertise of both environment and trade officials is fully incorporated into this exercise. A better understanding of the relationship between environment and trade liberalization will assist policy makers in designing strategies to promote the positive aspects of this relationship.

Progress to date

In the summer of 1995, the CEC began the exploratory phase of the NAFTA effects project, Phase 1. Phase 1 focussed on the main elements of the NAFTA and its more general regime and their direct and immediate effects on trade and investment flows within North America. It also considered dimensions of ecological quality in the project and identified major processes that can be used to link environmental development in Canada, Mexico and the United States to NAFTA-induced economic and policy changes.

The preliminary work that resulted from Phase 1 was presented and discussed at a workshop in La Jolla, California April 29 - 30, 1996.

Activities

Research for this particular project is being carried out by an interdisciplinary study team of experts, with the advice of a 15 person advisory body made up of senior representatives from a variety of relevant sectors in each of the three countries. The work program for 1997 will focus on the following activities:

1. A report on the intergovernmental institutions and committees created or inspired by the NAFTA.
2. An interim report for the Council on the state of development of the elements for the analytical approach.
3. Case studies that will develop and test the elements of the analytical approach, and identify, if possible, the effects of NAFTA-related economic and institutional developments on the North American environment.
4. A meeting of the study team with trade and environment officials in July to discuss the interim report and case studies, and another meeting before the end of October to review progress and exchange views for future work.
5. Two expert workshops, one on agriculture and one on energy, in 1997 to peer review the case studies.
6. At the end of 1997, a report to the Council and the Free Trade Commission on the results of the project.

Expected Results

1997

1. Published report on the NAFTA Institutions and Committees.
2. An interim report to the Council in June on the state of development of the elements for the analytical approach.
3. A final report to Council.
4. The Council will publish the results.

1998

A trade and environment officials working group will meet in Fall 1997 and early 1998 to develop the terms of reference for the 1998 work program. These terms of reference will consider a new approach that attempts to identify the positive trade and environment links, among other things.

Budget : \$250,000

Estimated Breakdown:

Professional Fees and Cooperative Agreements	\$129,500
Traveling, Accommodation and Meeting Expenses	\$ 95,500
Translation and Interpretation, including pre-publication costs	\$ 13,500
Office expenses (FedEx, etc.)	\$ 5,500
Equipment purchase (if applicable)	N/A
Other	\$ 6,000

Pittsburgh, June 12, 1997

COUNCIL RESOLUTION 97-04

Promoting Comparability of Pollutant Release and Transfer Registers (PRTRs)

THE COUNCIL:

REAFFIRMING the importance of the objectives of the North American Agreement on Environmental Cooperation (NAAEC);

DETERMINED to take action pursuant to Article 10(2)(a) of the NAAEC which provides that the Council may consider and develop recommendations regarding “comparability of techniques and methodologies for data gathering and analysis, data management and electronic data communications on matters covered by this Agreement”;

TAKING INTO ACCOUNT Chapter 19 of Agenda 21 which states, *inter alia*, that governments and relevant international organizations with the cooperation of industry should “improve databases and information systems on toxic chemicals” and that “the broadest possible awareness of chemical risks is a prerequisite for achieving chemical safety”;

ALSO TAKING INTO ACCOUNT the Recommendation of the Council of the Organization for Economic Cooperation and Development (OECD) of 20 February 1996 which states that “[m]ember countries should consider sharing periodically the results of the implementation of such systems among themselves and with non-member countries with particular emphasis upon sharing of data from border areas among relevant neighboring countries”, and that member countries in establishing PRTR systems should take into account the set of principles contained in the Annex to the OECD Recommendation, including that “PRTR systems should allow as far as possible comparison and cooperation with other national PRTR systems and possible harmonization with similar international databases”;

BUILDING UPON activities taken pursuant to existing agreements by focusing on the comparability of methodologies for data collection and analysis;

CONVINCED that PRTRs provide valuable information to assist in environmental risk reduction, environmental decision making and sound management of chemicals and allow for public access to environmental information;

AFFIRMING that a higher degree of data comparability is necessary for a more accurate representation of North American environmental quality;

RECOGNIZING that each national program has developed a unique process for the collection and modification of environmental data sets;

CONVINCED of the importance of reliable and relevant environmental data to assist the Parties and others in taking informed and responsible actions pursuant to Article 10(2)(a) of the NAAEC and other bilateral or multilateral agreements;

HEREBY:

AGREES to work toward adopting more comparable PRTRs;

FURTHER AGREES to produce an annual Commission for Environmental Cooperation (CEC) report analyzing publicly available information from North American PRTRs which will be produced by 31 December of each year (analyzing data from two years prior) provided the CEC Secretariat receives the PRTR data by 1 April of each year;

DECIDES to collaborate in the development of an Internet site to present the matched subset of data from each of the three national PRTRs and provide information on the degree of comparability of the North American PRTRs and other information as agreed upon by the Council by June 1998;

AGREES to promote regional cooperation among the Parties to enhance PRTRs in North America, to improve the usefulness of the information by allowing better comparison and use of the data through focusing on the following PRTR issues:

- what is reported,
- who is required to report,
- reporting guidance, including:
 - definitions and nomenclature
 - data estimation techniques
- data dissemination and user support,
- information on releases from non-point sources, as mutually agreed upon, and
- other issues as mutually agreed upon.

DIRECTS the Secretariat to work with the Parties to implement the decisions and commitments set forth in this resolution, including:

- a) developing an implementation plan to enhance the comparability of North American PRTRs by 31 March 1998, including short-term and long-term goals;

- b) revising and assessing progress in enhancing the comparability of North American PRTRs annually, beginning 31 March 1998.
- c) developing recommendations to improve dissemination of PRTR data, including facilitation of user access to, and comprehension of, PRTR data and associated relevant information, as well as measures relating to joint approaches to technical cooperation and information sharing;
- d) noting which industrial sectors, within the matched subset of PRTR data, have significant differences in the amounts reported between the national PRTR programs, and examining possible reasons for these differences;
- e) developing recommendations for special focus reports to highlight areas that would benefit from further comparability, as may be agreed upon by the Council;
- f) encouraging complementary national approaches and timetables to enhance PRTRs in a manner that respects the different economic, political and regulatory circumstances of the Parties;
- g) encouraging and providing for meaningful public and governmental participation, including participation by non-governmental organizations, business and industry, provincial, state, and municipal governments, academia, and technical and policy experts in developing its recommendations for enhanced comparability; and
- h) coordinating activities, avoiding the duplication of effort, and where possible, using the expertise of existing workgroups and other organizations, e.g., UNITAR (United Nations Institute for Training and Research), OECD, and the *PRTR Coordination Group* (as recommended under *International Forum for Chemical Safety*).

APPROVED BY THE COUNCIL:

(S) Fred Hansen

Fred Hansen
Government of the United States of America

(S) Gabriel Quadri de la Torre

Gabriel Quadri de la Torre
Government of the United Mexican States

(S) John A. Fraser

John A. Fraser
Government of Canada

Pittsburgh, June 12, 1997

COUNCIL RESOLUTION: #97-06

North American Agreement on Environmental Cooperation (NAAEC) Review Pursuant to Article 10:1(b)

THE COUNCIL:

ACKNOWLEDGING Article 10:1(b) of the NAAEC, which provides that the Council shall oversee the implementation and develop recommendations on the further elaboration of the NAAEC and, to this end, shall, within four years after the date of entry into force of the NAAEC, review its operation and effectiveness in light of experience;

RECOGNIZING that the NAAEC entered into force on January 1, 1994;

DETERMINED to develop a process for review of the NAAEC that provides an opportunity for public participation;

AFFIRMING that the Council began its review of the NAAEC in early 1997; and

TAKING INTO ACCOUNT that the NAAEC has not yet been implemented in its entirety because of priorities set by the Parties or because circumstances have not given rise to use of particular portions of the NAAEC;

HEREBY DECLARES THAT:

1. The Council or Alternate Representatives will meet at least once in 1997 specifically to review the operation and effectiveness of the NAAEC in light of experience;
2. Each Party will request comments on the operation and effectiveness of the NAAEC from their National and Government Advisory Committees during the review period;
3. Each Party will choose a senior environmental expert to serve on a Review Committee, which will provide an independent Report to Council on the Operation and Effectiveness of the NAAEC by November 15, 1997; and
4. The Council will consider the Review Committee's Report, as well as other comments submitted pursuant to this resolution and will prepare a final report by December 31, 1997. This final report will be made available to the public and will include the Review Committee's Report to Council. A summary of the Council's final report will be included in the CEC 1997 Annual Report;

AND HEREBY INSTRUCTS:

1. Designees of each member of the Council, using the services of the Secretariat at their request, to provide support to the Review Committee pursuant to Article 11:5 of the NAAEC, and to serve as the point of contact for all comments received pursuant to this resolution from senior environmental experts, the general public, JPAC, each Party and from other sources, and to organize those comments for the Review Committee by September 15, 1997; and
2. The JPAC, in accordance with Article 16:4 of the NAAEC, to provide advice regarding the implementation and further elaboration of the NAAEC in light of experience and provide comments to the Council and the Review Committee in writing before September 1, 1997.

APPROVED BY THE COUNCIL:

(S) Fred Hansen

Fred Hansen
Government of the United States

(S) José Luis Samaniego

José Luis Samaniego
Government of the United Mexican States

(S) John A. Fraser

John A. Fraser
Government of Canada

Pittsburgh, June 12, 1997

COUNCIL RESOLUTION #97-05

Future Cooperation regarding Environmental Management Systems and Compliance

THE COUNCIL:

ACKNOWLEDGING the accomplishments of the North American Working Group on Environmental Enforcement and Compliance Cooperation (“Working Group”), created pursuant to Council Resolution No. 96-06 (August 2, 1996), in implementing a program of cooperation to enhance effective environmental enforcement and compliance;

REAFFIRMING the objective of Article 1(f) of the North American Agreement on Environmental Cooperation (NAAEC) to strengthen cooperation on the development and improvement of environmental laws, regulations, procedures, policies and practices;

RECOGNIZING the right of each Party under Article 3 of the NAAEC to establish its own levels of domestic environmental protection and environmental development policies and priorities, and to adopt or modify accordingly its environmental laws and regulations, as well as the obligations of each Party under that Article to ensure that its laws and regulations provide for high levels of environmental protection and to strive to continue to improve those laws and regulations;

TAKING INTO ACCOUNT the obligation of each Party under Article 5 of the NAAEC to effectively enforce its environmental laws and regulations through appropriate governmental action, with the aim of achieving high levels of environmental protection and compliance with its environmental laws and regulations;

CONSIDERING the function of the Council under Article 10(2)(p) of the NAAEC to consider, and develop recommendations regarding, approaches to environmental compliance and enforcement;

CARRYING OUT the obligation of the Council under Article 10(4) of the NAAEC to encourage effective enforcement by each Party of its environmental laws and regulations, compliance with those laws and regulations, and technical cooperation among the Parties;

DECLARES THAT:

Governments must retain the primary role in establishing environmental standards and verifying and enforcing compliance with laws and regulations. Strong and effective governmental programs to enforce environmental laws and regulations are essential to ensure the protection of public health and the environment. Voluntary compliance programs and initiatives developed by governments can supplement strong and effective enforcement of environmental laws and regulations, can encourage mutual trust between regulated entities and government, and can facilitate the achievement of common environmental protection goals;

Private voluntary efforts, such as adoption of Environmental Management Systems (EMSs) such as those based on the International Organization on Standardization's Specification Standard 14001 (ISO 14001), may also foster improved environmental compliance and sound environmental management and performance. ISO 14001 is not, however, a performance standard. Adoption of an EMS pursuant to ISO 14001 does not constitute or guarantee compliance with legal requirements and will not in any way prevent the governments from taking enforcement action where appropriate;

HEREBY DIRECTS:

The Working Group to explore 1) the relationship between the ISO 14000 series and other voluntary EMSs to government programs to enforce, verify and promote compliance with environmental laws and regulations, and 2) opportunities to exchange information and develop cooperative positions regarding the role and effect of EMSs on compliance and other environmental performance. The Working Group shall, no later than the 1998 Council Session, report its results to the Council and provide recommendations for future cooperative action in this area. The review and recommendations shall recognize and respect each Party's domestic requirements and sovereignty.

APPROVED BY THE COUNCIL:

(S) Fred Hansen

Fred Hansen
Government of the United States of America

(S) Antonio Azuela de la Cueva

Antonio Azuela de la Cueva
Government of the United Mexican States

(S) John A. Fraser

John A. Fraser
Government of Canada



FINAL COMMUNIQUÉ of the NAFTA Environment Commission's 4th Annual Session

--Pittsburgh, 13 June 1997.

The Council of the Commission for Environmental Cooperation (CEC)—made up of Mexican Secretary of Environment, Natural Resources and Fisheries Julia Carabias, US Environmental Protection Agency Administrator Carol Browner, represented by Deputy Administrator Fred Hansen, and Canadian Environment Minister Christine Stewart, represented by Environment Ambassador John Fraser—today reported to the public on joint actions taken to meet the goals set under the North American Agreement on Environmental Cooperation (NAAEC), the environmental side accord to NAFTA. The Minister for Environmental Protection of Alberta, Ty Lund, also attended the meeting.

During an open dialogue with members of the public from Canada, Mexico and the United States, the environment leaders reaffirmed their commitment to the CEC as a dynamic and open forum for helping the NAFTA partners meet global goals to ensure a cleaner, healthier environment for future generations.

Reducing the Threat of Toxic Chemicals to Human Health and the Environment

The Council announced today that it has completed regional action plans for the reduction and eventual elimination of two dangerous pesticides, chlordane and DDT, from the North American environment. A regional action plan for the reduction of PCBs was completed in April, and is already being implemented. These action plans are a regional response to growing local and international concern over the detrimental impact of these toxic substances on human health and the environment. Implementing these actions plans will also contribute to the reduction of long-range transport of air pollutants to the Arctic. The Council expects a draft regional action plan on human-caused releases of mercury to be made public for comment and review by July 15. A final plan will be ready in September. Criteria to select additional toxic substances for priority action will be presented to Council this fall.

Strengthening Efforts to Improve Environmental Compliance

The Council affirmed the primary role of governments in establishing environmental standards, and for verifying and enforcing compliance with laws and regulations. Strong and effective governmental programs to enforce environmental laws and regulations are essential to ensure protection of public health and the environment. The Council also recognized the potential contribution of voluntary programs, such as ISO 14000, to complement environmental laws and regulations. The Council called upon industry to become partners in efforts to protect the North American environment and to pursue innovative private sector approaches for improving environmental compliance.



Transboundary Environmental Impact Assessment

Building upon the work of the North American Intergovernmental Group on Transboundary Environmental Impact Assessment, the signatories to the NAFTA side accord today agreed to complete a legally binding agreement consistent with their obligations under Article 10(7) of the NAAEC by April 15, 1998. This agreement will include, among other things, provisions on assessment of transboundary environmental impacts, notice to the country potentially affected by those impacts, consideration of mitigation measures, and public participation in decision making. The Council also agreed that a working document on a transboundary environmental impact assessment agreement will be distributed publicly in the fall.

Review of Enforcement Submission Guidelines and Development of Model Rules for Dispute Settlement

The Council today agreed to initiate the review process of the Guidelines for Submissions on Enforcement Matters under Articles 14 and 15 of the NAAEC. The Council will exchange proposed modifications no later than September 1. The Joint Public Advisory Committee, the advisory group of the CEC, will have an opportunity to comment on the mutually agreed-upon modifications during a 60-day period. Final modifications reflecting this public input will be ready by December 15. The Council also agreed to develop model rules for dispute settlement between the signatories to the NAAEC by the end of the year.

Environment and Trade

A group of trade and environmental officials from Canada, Mexico and the United States will develop recommendations on how the CEC and the NAFTA Free Trade Commission can best fulfill the mandate of the environmental side accord by working together on a number of trade-related activities. The three-year NAFTA Environmental Effects project will report results by the end of 1997. The general objective of the 1997 project was to provide the Council with elements for an analytical approach to assess whether NAFTA's trade liberalization has influenced the Canadian, Mexican, and the United States economies in ways which have had environmental effects and, to the extent possible, identify any specific environmental effects related to NAFTA. In order to carry on with the side accord's ongoing obligation in this area, the trade and environment officials group will develop the terms of reference for the 1998 work program on NAFTA Environmental Effects.

Transboundary Air Monitoring and Modeling

The Council today recognized progress on increasing the number of transboundary air monitoring and modeling initiatives in North America. Two pilot projects are currently underway along the US-Mexican and Canadian-US borders. One initiative is aimed at reducing pollution along a primary NAFTA



transportation corridor, US Interstate 35 in Texas, and connecting highways in northern Mexico. The other initiative is investigating the transboundary flow of ground-level ozone in the northeastern United States and eastern Canada.

Evaluate Success of the NAFTA Environmental Side Accord

The Council today agreed to a process for reviewing the NAAEC. This review, which is called for by the Agreement within its first four years of operation, will include consultation with the public. The final report on the operations and effectiveness of the NAAEC implementation will be made public by the Council at the end of the year.

Council Meeting in the Fall

The Council today agreed that it will explore the possibility of holding a meeting this fall at the CEC Secretariat in Montreal to accelerate progress on important priorities of the CEC.

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