

1999 REGULAR SESSION OF THE COUNCIL

Sunday, 27 June and Monday 28 June 1999
Banff, Canada

SUMMARY RECORD

The Council held its Sixth Regular Session on 27 and 28 June 1999 in Banff, Alberta, Canada. Minister Christine Stewart (Canada) chaired the meeting. Administrator Carol M. Browner and Secretary Julia Carabias represented the United States and Mexico, respectively. Janine Ferretti, Executive Director, represented the Secretariat and Marc Paquin acted as Council Secretary. The list of delegates is included as Annex A.

Item 1 Joint Meeting with the JPAC

The Joint Public Advisory Committee (JPAC) informed the Council of the results of the public workshops it held throughout the year. The Council indicated it would welcome proposals destined to maximize benefits from the public portion of the Regular Session of the Council. JPAC further informed the Council of its efforts to better involve remote communities and indigenous peoples (Advice 99-05), an issue that will be discussed during the next JPAC meeting. Council endorsed this effort.

JPAC then summarized the various advice it presented to Council throughout the year. On the Guidelines for Submissions on Enforcement Matters under Articles 14 and 15 (Advice 99-01), JPAC explained the process that led to the development of its advice. Concerning Environmental Management Systems (EMS) and Compliance (Advice 99-02) JPAC noted the usefulness of using EMS as a complement to legislation and the need to work on issues of certification to ensure that processes are sound. As for the Sound Management of Chemicals program (Advice 99-04), JPAC focused on the following ten points: health, monitoring, trade, quick results, protecting the food supply, health benefits, practical measures, positive links, other chemicals (particularly lead, but also lindane) and grouping of chemicals.

JPAC also noted the importance of having common guidelines for public participation to bring about consistency in that area, and recommended putting into effect the draft Framework for Public Participation in CEC Activities (Advice 99-06). In addition, JPAC expressed its disappointment that no agreement on Transboundary Environmental Impact Assessment had been reached and recommended strong leadership from Council members in delivering this important tool (Advice 99-07). JPAC then described the initiative on the upper San Pedro River as an example of what can be accomplished with strong local participation and suggested that there are trilateral implications associated with this work, as it illustrates a successful model for the management of important transborder resources.

JPAC further noted the importance that the CEC establish a relationship with the Free Trade Commission in order to strengthen cooperation (Advice 99-08). On regional solutions to global issues (Advice 99-09), JPAC underlined four important initiatives: assessment of risk from trade

in genetically engineered organisms, transboundary impact assessment, evaluation of laboratory procedures and assessment of water quality.

JPAC expressed its satisfaction with the implementation of a large number of the recommendations from the report of the Independent Review Committee (Advice 99-03). JPAC noted with particular interest that the report recognizes the independent responsibilities of the Secretariat, the need to specify the roles and relationships between different bodies at the CEC, the need for political interest and support, and the importance of relationships with other institutions.

JPAC further reported on the establishment of the Mexican National Advisory Committee, which will enhance public participation and communication with other NACs.

Finally, the JPAC noted the importance of socio-economic issues associated with the environment, science-based policies and the need for collaborative monitoring, particularly with regard to exotic species.

The Council thanked the JPAC for its specific advice and requested JPAC to assist the Secretariat in developing mechanisms for assessing and monitoring CEC results.

The Council indicated that it would endeavor to make progress on TEIA at this meeting. The Council also acknowledged the success of the work undertaken on the upper San Pedro River and indicated that it is now an important US-Mexico binational initiative and the subject of a recently signed letter of intent to protect and promote the river basin. The Council then noted that it would include issues of trends, biosafety, water quality and laboratories standards on its agenda. In addition, the Council reiterated the importance of concluding the Guidelines for Submissions on Enforcement Matters under Articles 14 and 15. The Council supported the work undertaken under the SMOC initiative and stressed the need to achieve further progress on the comparability of pollutant release and transfer registers (the PRTR project). The Council concluded by noting the importance of the CEC's focus on trade and environment and the continuing need to engage the trade ministries in discussions.

Item 2 Opening of the in-camera session and adoption of the agenda

The Chair opened the in-camera session and the agenda was approved (Annex B).

Item 3 Report by the Executive Director

A copy of the report by the Executive Director addressing, in particular, the further development of the three-year program and budget and the continued implementation of the "Shared Agenda for Action" was circulated along with an annex highlighting a number of important successes achieved by the CEC in the past year, such as the leveraging of funds outside of the CEC, the good progress made in implementing the North American Regional Action Plan (NARAP) on DDT in Mexico and the improvements to the NAFEC guidelines.

Item 4 Strengthening the North American partnership for a better environment

The Council discussed in-depth the difficulties encountered by the negotiators in concluding an agreement on Transboundary Environmental Impact Assessment due to the differences in the environmental management systems of the three countries. Nevertheless, members of the Council agreed to work with their respective negotiators and individual border states and provinces to develop “good neighbor” agreements based on reciprocity. The goal is to ensure transparency and participation in the processes for proposed projects with environmental consequences in border regions. The Council asked the Secretariat to provide the necessary assistance to the negotiators in support of this effort, for the purpose of compiling, as quickly as possible, an inventory of the federal, provincial and state processes and terminology involved. The Council agreed to fully support these processes to quickly conclude these negotiations.

Item 5 Protecting human health and the environment

The Council approved Resolution 99-01, “Developing a North American Regional Action Plan for Dioxins and Furans, and Hexachlorobenzene” (Annex C), regarding the development of a NARAP to reduce releases into the environment of dioxins and furans, and hexachlorobenzene.

The Council also approved Resolution 99-02, “Developing a North American Regional Action Plan on Environmental Monitoring and Assessment” (Annex D), concerning the development of an environmental monitoring and assessment action plan in support of the sound management of chemicals.

Item 6 Conserving our natural heritage

The Council adopted Resolution 99-03, “North American Bird Conservation Initiative” (Annex E), which approves an action plan to conserve birds and their vital habitats through a broad range of strategies based on ecosystems across North America.

The Council approved Council Resolution 99-04, “The Upper San Pedro River Initiative” (Annex F), thereby releasing to the public the report, entitled *Ribbon of Life, An Agenda for Preserving Transboundary Migratory Bird Habitat on the Upper San Pedro River*, prepared under Article 13 of the NAAEC. The Council commended the expert panel for preparing a science-based report, the advisory panel for proposing pragmatic solutions in the basin, and the CEC Secretariat for its successful role in catalyzing a discussion among a diversity of stakeholders leading to a growing number of promising state, local and federal initiatives on both sides of this transboundary watershed. The Council encouraged the CEC’s continued participation in support of this initiative as a model of cooperation in the management of transboundary resources.

The Secretariat reported on follow-up actions conducted in Mexico in response to the Article 13 report on the Silva Reservoir, focusing, in particular, on important advances in public participation and capacity building.

Item 7 Building the environment and trade relationship

The Council noted that building the environment and trade relationship is central to the work of the CEC. It announced a North American Symposium on Understanding the Linkages between Trade and the Environment, to be held in October 2000. In preparation for the conference, the Council released a *Final Analytical Framework for Assessing the Environmental Effects of NAFTA* and issued a call for papers (Annex G), encouraging academics, researchers and policy experts to test the NAFTA effects framework for specific situations.

The Council noted that the discussions between trade and environment officials pursuant to Article 10(6) of the North American Agreement on Environmental Cooperation (NAAEC) have been very useful in elaborating the cooperative relationship between the CEC and the Free Trade Commission (FTC). Trade and environment officials have also been discussing areas of future joint work with regard to environment, economy and trade. The Council emphasized the importance of this work and encouraged the ongoing process to move forward.

Recognizing the sovereign right of governments to legislate in the area of the environment, the Council fully supported and encouraged the FTC to continue discussions on NAFTA Chapter 11 (relating to the investor-state dispute settlement process) and offered to provide any assistance to the FTC.

Item 8 Promoting effective enforcement and compliance

The Secretariat gave the Council a brief presentation on the status of the 20 submissions that have been filed to date under Article 14 of the NAAEC. The Council asked the Secretariat to continue providing regular briefings on the status of submissions filed under Article 14.

The Council approved Council Resolution 99-06, "Adoption of the Revised Guidelines for Submissions on Enforcement Matters Under Articles 14 and 15 of the North American Agreement on Environmental Cooperation" (Annex H).

Item 9 Official opening of the session

The Chair officially opened the session and welcomed the participants.

Item 10 Review and finalization of the session communiqué

The Council reviewed and finalized the session communiqué.

Item 11 Engaging and informing the North American public

The Council approved, in principal, the draft "Framework for Public Participation in CEC Activities", subject to a linguistic review to be conducted by the Parties.

Item 12 2000 funding of the CEC

The Council approved Council Resolution 99-05, “2000 Funding of the Commission for Environmental Cooperation,” which establishes funding for 2000 at a level equal to US\$9 million (Annex I).

Item 13 Other business

No other issues were raised.

Item 14 Approval of session communiqué

The Council approved the final communiqué (Annex J).

Item 15 Preparation for the public portion of the session

The Council discussed the format of the public portion of the session.

Item 16 Public portion of the session

The Council informed the public of the early results of its in-camera session, including progress made in the priority area of the protection of human health through the SMOC initiative and announced the development of a new NARAP to reduce dioxins, furans, and hexachlorobenzene. The Council outlined the progress made in the area of Environment, Economy and Trade, and announced the first-ever North American Symposium on Understanding the Linkages between Trade and Environment, to be held in October 2000. The Council also released a call for papers for the symposium and the *Final Analytical Framework for Assessing the Environmental Effects of NAFTA*. The Council announced its agreement on the revised Guidelines for Submissions on Enforcement Matters under Articles 14 and 15. A dialogue regarding new issues related to the development of factual records will continue in the very near future. In addition, the Council announced its intention to work with regulators and border states and provinces to build “good neighbor” agreements in a new approach to transboundary environmental impact assessment. The Council further announced the development of an action plan to conserve birds and their habitats, the release of the report *Ribbon of Life* developed in the context of the upper San Pedro River Initiative, and acknowledged the good work done on the Silva Reservoir. Finally, the Council noted the important advances the CEC has made over the past six years and its unique position as an institution dealing with issues of trade and environment and involving extensive public participation.

The Council was in turn briefed by three members of the public on the results of the public workshop conducted that morning by JPAC. The updates focused on issues related to environment, economy and trade; pollutants and health; conservation of biodiversity; and law and enforcement cooperation. The final written workshop report will be provided to the Council by JPAC and will include detailed results and recommendations.

The Council then heard presentations from the public on a number of issues including trade and environment, biodiversity conservation, pollutants and health, indigenous peoples, public participation, NAFTA Chapter 11, NAAEC Articles 13, 14 and 15, and transboundary issues. The Council provided its response to a number of them prior to thanking the public and JPAC for their contributions. The presentations from the public will be summarized in a separate document that will be distributed to all participants.

Item 17 Mapping out the future (Joint meeting with the JPAC)

The Council thanked the JPAC members for their work and expressed its interest in receiving their ideas for future work at the CEC.

The Council reported that an agreement had been reached on the revision of the Guidelines for Submissions on Enforcement Matter, taking into account the public's valuable input and JPAC's advice. To ensure transparency and legitimacy of the process, and provide comfort to and support from the people who have been following the process, JPAC stressed that it would be important for the public to be made aware of the reasons why the Council decided to revise the guidelines at this stage, and indicated that it would monitor the implementation of the revised guidelines.

The Chair of JPAC then summarized four broad areas of priority interest that have been identified by JPAC for the CEC workplan in 2000: emerging trends, strategic directions for the conservation of biodiversity, "green" transportation corridors and environmental management systems.

In addition, the Chair of JPAC noted the following other areas of specific interest that arose from public input at this session: amendments to the Articles 14 and 15 Guidelines, public participation framework; NAFTA Chapter 11 and NAAEC Article 10(6); and the interrelationship between the Free Trade Commission and the CEC. JPAC noted the existence of a window where, for the first time, there is an opportunity to define a more active role for the environmental establishment, and institutionalize it into trade considerations. If it is successful in its efforts in this area, the CEC could become an institution of global significance. The JPAC further noted that it was interested in developing priority areas to guide the Council's Call for Papers for the North American Symposium on Understanding the Linkages between Trade and the Environment. JPAC also expressed a particular interest in providing advice to Council on mechanisms for monitoring and assessing the results of CEC projects and on the involvement of indigenous peoples. Finally, the JPAC indicated that it could work with the Secretariat to improve the public portion of the Council Session and ensure a more meaningful and effective interaction between the Council and the public. JPAC noted that the CEC is unique in its institutional structure, as it allows the public to address the ministers, and that this aspect should be capitalized on.

The Council suggested that in considering the issue of public participation it would be useful to identify and consider specific features that have proven useful in promoting effective participation in past Council sessions, taking into consideration the time allocated for direct interaction among the ministers. The Council also noted the importance of follow-up to public questions or comments. On that matter, the JPAC Chair informed the Council that JPAC had prepared a follow-up report and had made it available to the public prior to the Council session.

The Council expressed its interest in the issues that have emerged during this session and encouraged JPAC to follow these during the next year. In particular, the Council reaffirmed the importance of identifying priority areas for the call for papers within the NAFTA Environmental Effects work, of monitoring and assessing results of CEC project and of pursuing efforts to involve indigenous peoples in the work of the CEC. Finally the Council indicated that public participation is fundamental to the CEC and emphasized the importance of making it effective through continued support.

Item 18 Concluding remarks and closure of the session

In their concluding remarks, members of the Council congratulated the Executive Director on her appointment and commended her performance over the past year. The Council also commended the Executive Director, the Secretariat staff and the national delegations for their efforts in ensuring the success of this session. The Chair closed the session.

Prepared by Marc Paquin, Council Secretary

Sixième session ordinaire du Conseil, les 27, 28 et 29 juin 1999, Banff, Alberta
Sexta sesión ordinaria del Consejo, 27, 28 y 29 de junio de 1999, Banff, Alberta
Sixth Regular Session of the Council, June 27-29, 1999 – Banff, Alberta

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**1999 REGULAR SESSION OF THE COUNCIL OF
THE COMMISSION FOR ENVIRONMENTAL COOPERATION (CEC)**

27 – 28 June 1999
Banff, Alberta, Canada

Provisional Agenda

Chair: Minister Christine Stewart (Canada)

SUNDAY, 27 JUNE 1999

11:30 AM – 1:00 PM Joint meeting with JPAC (in camera)

Item 1 Joint meeting with JPAC (1.5 hr.)

2:00 PM – 4:00 PM In-camera session

Item 2 Opening of the in-camera session and adoption of the agenda (15 min.)

Item 3 Report by the Executive Director (15 min.)

Item 4 Strengthening the North American partnership for a better environment (45 min.)

Item 5 Protecting human health and the environment (45 min.)

4:30 PM – 6:30 PM In-camera session

Item 6 Conserving our natural heritage (45 min.)

Item 7 Building the environment and trade relationship (45 min.)

Item 8 Promoting effective enforcement and compliance (30 min., continuing the next day
for 15 minutes)

7:00 PM – 8:00 PM Welcoming reception

Item 9 Official opening of the session by the Chair and welcoming remarks by the
Council, the Interim Executive Director, and the Chair of JPAC (1 hr.)

MONDAY, 28 JUNE 1999

9:00 AM – 10:30 AM In-camera session

- Item 8 Promoting effective enforcement and compliance (15 min., continued from previous day)
- Item 10 Review of first draft of session communiqué (30 min.)
- Item 11 Engaging and informing the North American public (45 min.)
- Item 12 2000 Funding of the CEC (15 min.)
- Item 13 Other business (15 min.)

11:00 AM – 12:30 PM In-camera session (working lunch)

- Item 14 Review of session communiqué (45 min.)
- Item 15 Preparation for the public portion of the session (15 min.)

12:45 PM – 2:45 PM Public Session

- Item 16 Public portion of the session (2 hrs)

2:15 PM – 3:15 PM Press Conference

3:30 PM – 4:30 PM Joint meeting with the JPAC (in camera)

- Item 17 Mapping out the future (50 min.)
- Item 18 Concluding remarks and closure of the session (10 min.)

1999 REGULAR SESSION OF THE COUNCIL

Annotations to the Provisional Agenda

JOINT MEETING WITH THE JPAC (IN CAMERA)

Item 1 Joint meeting with the JPAC

Under this item it is proposed that the Council meet with the JPAC to discuss issues of common interest, particularly related to the themes of the upcoming meeting. JPAC may wish to provide advice to the Council on any matter within the scope of the NAAEC. The Council may wish to respond to the advice submitted by the JPAC and provide guidance to the JPAC.

DOCUMENT(S):

- a) Agenda for Regular Session of JPAC and Round table J/99-03/AGEN/Rev.1
- b) 1998 Regular Session of the Council: follow-up from the public workshop J/98-00/RPT
- c) JPAC Advice 99-03: Follow-up to the four-year review of the NAAEC:
Report of the Independent Review Committee J/99-03/ADV
- d) JPAC Advice 99-04: The Sound Management Chemicals Program of the CEC J/99-04/ADV
- e) JPAC Advice 99-05: Expanding the involvement of the North American public,
including indigenous peoples in the work of the CEC J/99-05/ADV/Rev.1
- f) JPAC Advice 99-06: Draft Framework for Public Participation in the CEC's
Activities J/99-06/ADV
- g) JPAC Advice 99-07: The Negotiations of the North American Agreement
on TEIA J/99-07/ADV
- h) JPAC Advice 99-08: Article 10(6) of the NAAEC: Process for cooperation between
the Council of the CEC and the NAFTA Free Trade Commission J/99-08/ADV
- i) JPAC Advice 99-09: Regional Solutions to Global Issues for the Next
Millennium J/99-09/ADV
- j) JPAC Advice 99-10: Expanding the involvement of indigenous people
in the work of the CEC J/99-10/ADV
- k) JPAC Report to Council 98-02: Summary of round table on the CEC's
Three-Year Program Plan 1999-2001, Washington, DC J/98-02/RPT
- l) JPAC Report to Council 99-01: Summary of round table on the CEC's
Three-Year Program Plan 1999-2001, Mexico, DF J/99-01/RPT/01
- m) JPAC Report to Council 98-02: Summary of round table on the CEC's
Three-Year Program Plan 1999-2001, Anchorage, Alaska J/99-02/RPT
- n) JPAC Attendance Report J/RPT/Rev.14

IN CAMERA SESSION

Item 2 Opening of the in-camera session and 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 Council is therefore expected to adopt the agenda.

DOCUMENTS:

- a) Provisional annotated agenda C/99-00/AGEN/01/Rev.8
- b) Provisional program for the session C/99-00/PROG/01/Rev.10

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 Interim Executive Director will report on significant initiatives undertaken by the CEC and highlight major achievements since the Council met in June 1998. She will conclude her remarks by identifying emerging issues of possible interest for the CEC.

DOCUMENTS:

- a) Executive Director's report to Council

Item 4 Strengthening the North American partnership for a better environment

Item 4.1 General discussion

ACTION REQUIRED: Discussion

Under this item, the Council is expected to discuss the status of North American environmental cooperation. The Council is expected to take stock of how the *Shared Agenda for Action* has been implemented. It is also expected to consider opportunities for cooperation to achieve common national environmental priorities and international commitments in light of emerging trends.

DOCUMENT(S):

- a) Informal Note by the Secretariat: Shared North American Priorities and Opportunities for Joint Action (Draft II) and attachment: Table of national priorities
- b) Shared Agenda for Action
- c) Secretariat Note: Emerging Trends C/99-00/BACK/21
- d) Report of the 2nd meeting of the intergovernmental experts group on emerging trends

Item 4.2 Transboundary Environmental Impact Assessment (TEIA)

ACTION REQUIRED: Discussion and potential announcement

The Council may wish to either announce that the Parties reached consensus on a legally-binding agreement on transboundary environmental impact assessment, and publicly release the text of said agreement or take stock on the status of the negotiations and address any outstanding differences among the Parties. The conclusion of this Agreement would be a central announcement of the Council session as an important achievement resulting from the Parties continued cooperation.

DOCUMENTS:

- a) Secretariat Note on TEIA C/99-00/BACK/06/Rev.3
- b) Draft North American Agreement on TEIA, Rev.8.1
- c) Council resolution 97-03: TEIA C/97-00/RES/01/Rev.3
- d) JPAC Advice 99-07: Negotiations of the North American Agreement on TEIAJ/99-07/ADV

Item 5 Protecting human health and the environment

Item 5.1 General discussion

ACTION REQUIRED: Discussion

The Council is expected to focus on CEC's contribution to protecting the environment and safeguarding the health of North Americans. The Council is expected to discuss what has taken place to date at the CEC in that area, and discuss issues it considers need attention.

DOCUMENT(S):

- a) Informal Note by the Secretariat: Shared North American Priorities and Opportunities for Joint Action (Draft II) and attachment: Table of national priorities
- b) Shared Agenda for Action

Item 5.2 Sound Management of Chemicals (SMOC): Development of two additional North American Regional Action Plans (NARAPs) for dioxins and furans, and hexachlorobenzene (HCB)

ACTION REQUIRED: Announcement

The Council may wish to review the recommendations of the SMOC Working Group and announce that North American regional action plans will be developed for dioxins/furans and HCB. The announcement could include the reasons for the decision as well as a projected date for the completion of the NARAPs.

DOCUMENTS:

- a) Secretariat Note C/99-00/BACK/02/Rev.3
- c) Draft decision document on dioxins/furans
- d) Draft decision document on hexachlorobenzene
- e) Memo to the Alternate Representatives from the SMOC Working Group re: Program

- update and outcome of 8th meeting
- e) Draft Council Resolution: Developing NARAPs for Dioxins and Furans and for Hexachlorobenzene C/99-00/RES/01/Rev.1
- f) JPAC Advice 99-04: Sound Management of Chemicals Program of the CEC J/99-04/ADV

Item 5.3 SMOC: Development of a NARAP on monitoring and assessment in support of the SMOC initiative

ACTION REQUIRED: Announcement

The Council may wish to announce that a North American regional action plan will be developed for monitoring in support of the SMOC initiative. The announcement could include the reasons for the decision as well as a projected date for the completion of the NARAP (tentatively June 2000).

DOCUMENTS:

- a) Secretariat Note C/99-00/BACK/04/Rev.3
- b) Concept paper on monitoring
- c) Terms of references for developing a NARAP on monitoring Rev.8
- d) Memo to the Alternate Representatives from the SMOC Working Group: Proposal to develop a NARAP in support of the SMOC initiative
- e) Draft Council Resolution: Environmental Monitoring and Assessment C/99-00/RES/02/Rev.1

Item 6 Conserving our natural heritage

Item 6.1 General discussion

ACTION REQUIRED: Discussion

The Council is expected to discuss recent accomplishments by the CEC in sustaining North American biodiversity. The Council may also wish to discuss priorities for future work in this area and possible cooperation.

DOCUMENT(S):

- a) Informal Note by the Secretariat: Shared North American Priorities and Opportunities for Joint Action (Draft II) and attachment: Table of national priorities
- b) Shared Agenda for Action

Item 6.2 Cooperation in the conservation of birds of North America

ACTION REQUIRED: Approval and potential announcement

The Council is expected to review and, as appropriate, approve a resolution related to the North American Bird Conservation Strategy and Action Plan building on Council resolution 96-02.

DOCUMENTS:

- a) Secretariat Note C/99-00/BACK/05/Rev.3
- b) North American Bird Conservation Initiative, Strategy and Action Plan
- c) Draft Council Resolution C/99-00/RES/03/Rev.3
- d) Council Resolution 96-02: Cooperation for the Conservation of the Birds of North America C/96-00/RES/01/Rev.6

Item 6.2 Article 13 Reports

Item 6.2.1 Upper San Pedro River

ACTION REQUIRED: Review and release of report and potential announcement

In accordance with Article 13 (3) of the NAAEC, the Council is expected to review and release, as appropriate, the Article 13 Report on the Upper San Pedro River, and consider the approval of a resolution on recommended actions to protect and enhance the exceptional bird habitat of the Upper San Pedro River.

DOCUMENTS:

- a) Secretariat Note C/99-00/BACK/09/Rev.3
- b) Report on the Upper San Pedro Initiative
- c) Draft Council Resolution C/99-00/RES/04

Item 6.2.2 Silva Reservoir

ACTION REQUIRED: Information item

As well, the Council may wish to review follow-up to previous Article 13 reports, including the cooperative program that enabled the restoration of the Silva Reservoir which involved various governmental and non-governmental institutions.

DOCUMENTS:

- a) Secretariat Note C/99-00/BACK/20/Rev.3
- b) Silva Reservoir: An example of environmental regional cooperation in North America
- c) Council Resolution 96-03 C/96-00/RES/10

Item 7 Building the environment and trade relationship

Item 7.1 General discussion

ACTION REQUIRED: Discussion

The Council has underlined the importance of working together to make trade and environment compatible. The Council may wish to review CEC's efforts to help governments formulate actions

and policies that minimize potential conflicts, while promoting positive interactions between trade liberalization and environmental protection.

More specifically, the Council may wish to discuss recent issues such as the letter from NGOs regarding the S.D. Myers case under Chapter 11 of NAFTA, and how the CEC could work towards clarifying and establishing working relationships which encourage compatibility of trade and environment. Within this context, the Council may also wish to make an announcement regarding the NAFTA Effects project and review the implementation of Article 10(6) of the NAAEC.

DOCUMENT(S):

- a) Informal Note by the Secretariat: Shared North American Priorities and Opportunities for Joint Action (Draft II) and attachment: Table of national priorities
- b) Shared Agenda for Action

Item 7.2 NAFTA Environmental Effects

ACTION REQUIRED: Discussion and potential announcement

The Council may wish to consider incentives to generate interest for, and announce, a call for papers and a prospective *First North American Conference on Research related to NAFTA and the Environment*. Said conference would include experts and stakeholders in the research community, environmental non-governmental organizations, industry, academics, governments and other relevant organizations and individuals working on issues related to environment and trade.

DOCUMENTS:

- a) Secretariat Note C/99-00/BACK/14/Rev.3
- b) *Final Analytic Framework (Phase II)*
- c) Call for papers

Item 7.3 Review of the implementation of Article 10(6) of the NAAEC

ACTION REQUIRED: Discussion and potential announcement

The Council is expected to discuss further direction and cooperation in the implementation of Article 10(6) of the NAAEC.

DOCUMENTS:

- a) Secretariat Note C/99-00/BACK/11/Rev.3
- b) Progress Report to the CEC Council on the meetings of Environment and Trade officials
- c) Proposed process for responding to public inquiries or comments submitted to the CEC Council under NAAEC Article 10(6)(a)
- d) Informal Note by Secretariat: Areas of consideration regarding dispute avoidance in Trade-Environment

- | | |
|--|-------------|
| e) JPAC Advice 98-08: Article 10(6) of the NAAEC | J/98-08/ADV |
| f) JPAC Advice 99-08: Process for cooperation between the Council of the CEC and the NAFTA Free Trade Commission | J/99-08/ADV |

Item 8 Promoting effective enforcement and compliance

Item 8.1 General discussion

ACTION REQUIRED: Discussion

The Council may wish to discuss issues relating to the effective enforcement of environmental laws. Within this context, the Council is expected to review the status of Article 14 submissions and address issues related to the preparation of factual records, the review of the guidelines for submissions on enforcement matters and the Article 28 rules of procedure.

DOCUMENT(S):

- a) Informal Note by the Secretariat: Shared North American Priorities and Opportunities for Joint Action (Draft II) and attachment: Table of national priorities
- b) Shared Agenda for Action
- c) JPAC Advice 99-02: Environmental Management Systems and Compliance Report J/99-02/ADV/Rev.1

Item 8.2 Report on Article 14 submissions

ACTION REQUIRED: Information item

In accordance with Article 14 of the NAAEC, the Secretariat may consider a submission from any non governmental organization or person asserting that a Party is failing to effectively enforce its environmental law, providing the submission meets the criteria set forth in the Agreement. The Secretariat is expected to update the Council on the status of pending Article 14 submissions.

DOCUMENTS:

- a) Report on status of outstanding submissions C/99-00/RPT/01

Item 8.3 Guidelines for submissions on enforcement matters under Articles 14 and 15 of the NAAEC

ACTION REQUIRED: Discussion and potential decision

A review of the Guidelines for Submissions on Enforcement Matters under Articles 14 and 15 of the North American Agreement on Environmental Cooperation was initiated by the Parties following a decision to that effect made by the Council at its June 1997 session in Pittsburgh. Proposed revisions were forwarded to JPAC for its advice. JPAC organized public consultations on the matter and then forwarded its advice to Council on 26 March 1999. The Council is expected to review and, as appropriate, make a decision on the Article 14 and 15 Guidelines.

DOCUMENTS:

- a) Proposed modifications to the Guidelines for Submissions on Enforcement Matters under Articles 14 and 15 of NAAEC
- b) Revised Guidelines for Submissions on Enforcement Matters under Articles 14 and 15 of NAAEC and summary of public comments (annotated draft prepared by Canada, 12 May 1999)
- c) Revised Guidelines for public comments (4 September 1998)
- d) JPAC Advice 99-01: Proposed modifications to the revised Guidelines for Submissions on Enforcement Matters under Articles 14 and 15 of NAAEC J/99-01/ADV/Rev.1

Item 8.4 Preparation of factual records

ACTION REQUIRED: Discussion and potential decision

The Council may wish to discuss the interpretive issues surrounding the preparation of factual records, in the interest of resolving issues such as those raised in relation to the B.C. Hydro submission before any future factual records are developed.

DOCUMENTS:

- a) Synopsis of outstanding issues
- b) Synopsis of legal issues

Item 8.5 Article 28 model rules of procedure

ACTION REQUIRED: Discussion and potential decision

The Parties agreed at their 1997 regular session to conduct and complete the Part V Model Rules negotiations concurrently with the revision of the Guidelines for Submissions on Enforcement Matters under Article 14, in order for both to be approved by the Council at the same time. The Council is expected to reiterate the Parties' commitment to conclude promptly negotiations of the NAAEC Part V Model Rules.

DOCUMENTS: No document

WELCOMING RECEPTION

Item 9 Official opening of the session by the Chair and welcoming remarks by the Council, the Executive Director, and the Chair of the JPAC

Under this item, it is proposed that the Chair welcome her counterparts and the public to Banff, and that each member of the Council then address the participants. The Council may also wish to take this opportunity to stress the importance of the public roundtable in the context of its regular session, scheduled the next day, and share its expectations with regard to the public meeting that will take place the following day.

The Executive Director and the Chair of the JPAC will then make their welcoming remarks.

Note: As the official opening is scheduled to take place during the welcoming reception, interpretation will not be available.

DOCUMENT(S): No documents

Item 10 Review and finalization of draft session communiqué (30 min.)

ACTION REQUIRED: Discussion

Under this item, it is proposed that the Council review and revise, as appropriate, the session communiqué to be released during the press conference.

DOCUMENTS:

- a) Draft CEC joint Council communiqué

Item 11 Engaging and informing the North American public

Item 11.1 General discussion

ACTION REQUIRED: Discussion

Under this item, the Council may wish to discuss the effectiveness with which the CEC has been informing the public (i.e. web site, various reports such as PRTR), as well as the importance of public involvement in CEC activities. The Council may also wish to discuss effective means of improving public access to information as well as of enhancing public participation in environmental decision-making and the broad range of activities within the CEC.

DOCUMENT(S):

- a) Informal Note by the Secretariat: Shared North American Priorities and Opportunities for Joint Action (Draft II) and attachment: Table of national priorities
- b) Shared Agenda for Action

Item 11.2 Draft Framework for public participation in CEC activities

ACTION REQUIRED: Discussion and potential release of Framework

The Framework for Public Participation is intended to assist the CEC in determining how best to involve the public and to provide an indication of the appropriate level of, and mechanisms for public participation in the CEC's activities. The Council is expected to review and, as appropriate, approve and release the Framework for Public Participation developed by the Secretariat in cooperation with the JPAC.

DOCUMENTS:

- a) JPAC Advice 99-06: Draft Framework for Public Participation in CEC Activities J/99-06/ADV
- b) Final Framework for Public Participation in CEC Activities

Item 12 2000 funding of the CEC

Under this item, the Council may wish to approve the CEC's budget for the year 2000 through the adoption of a Resolution.

DOCUMENT(S):

- a) Draft Council Resolution: 2000 funding of the CEC C/99-00/RES/05

Item 13 Other business

ACTION REQUIRED: n/a

At the time of writing, the Secretariat has no topic to propose under this item.

DOCUMENTS: No document

Item 14 Approval of session communiqué

ACTION REQUIRED: Discussion and approval

Under this item, it is proposed that the Council review and approve the final changes to the session communiqué to be released during the press conference.

It is also proposed that the Council review arrangements for the press conference, as appropriate. The basic agenda for the press conference could include: report by the Chair on proceedings; statement by other Council members; exchange with media representatives; individual interviews.

DOCUMENTS:

- a) CEC joint Council communiqué Draft III

Item 15 Preparation for the public portion of the session

ACTION REQUIRED: Discussion

Under this item, the Council is expected to prepare for the public portion of the session that will follow.

DOCUMENT(S):

- a) List of Participants C/99-00/LIST/02
- b) Provisional program of events opened to participants C/99-00/PROG/02/Rev.6
- c) Agenda for Regular Session of JPAC and round table J/99-03/AGEN/Rev.1

- d) 1998 Regular Session of the Council: follow-up from the public workshop J/98-00/RPT

PUBLIC SESSION

Item 16 Public portion of the session

ACTION REQUIRED: Discussion with the public

In accordance with Council Rules of Procedure (R. 4.1), the Council is expected to hold a public meeting to meet with the registered participants.

It is proposed that the public meeting be divided in three parts. During the first part, the Council would present the results of its first day of meeting and reiterate its expectations for the public meeting (15 min.). During the second part, a *rapporteur* (or rapporteurs) would present the results of the discussions that took place during the workshop on the 2000-2002 Program Plan of the CEC (10 min.). Thirdly, the floor would be open for individual presentations (65 min.). Finally, the Council would have an opportunity for Council to respond to all presentations (30 min.).

DOCUMENTS: (refer to previous item)

JOINT MEETING WITH THE JPAC (IN CAMERA)

Item 17 Mapping out the future

ACTION REQUIRED: Discussion

Under this item, the JPAC is expected to report on the public consultations it conducted on priority areas for future CEC program plans, and provide its advice to the Council on this matter. The Council may wish to take stock of its discussions on the previous day, and factoring in their discussions with the public and the JPAC's report on the public consultations, identify issues it considers are important. The Council is then expected to provide direction and guidance to the Secretariat for the development of the next version of the three year plan.

DOCUMENTS:

- a) Informal Note by the Secretariat: Shared North American Priorities and Opportunities for Joint Action (Draft II) and attachment: Table of national priorities
- b) 1999-2001 Three-Year Program Plan

Item 18 Concluding remarks and closure of the session

ACTION REQUIRED: Discussion

Under this item, the Chair of the session is expected to make any final announcements, acknowledge the contribution of participants and observe on the general conduct of the session.

It is also proposed that the Chair invite the other two Council members to make any final statements and then bring the meeting to a close.

DOCUMENTS: No document

Banff, 28 June 1999

COUNCIL RESOLUTION: 99-01

Developing a North American Regional Action Plan for Dioxins and Furans, and Hexachlorobenzene

THE COUNCIL:

REAFFIRMING the Parties' commitment to the sound management of chemicals, as guided by Agenda 21 which was adopted on the occasion of the 1992 United Nations Conference on Environment and Development;

REAFFIRMING Council Resolution 95-05 on the Sound Management of Chemicals, adopted on 13 October 1995, in Oaxaca, Mexico, and, in particular, the decisions and commitments to develop regional action plans for priority persistent and toxic substances of concern to Canada, Mexico and the United States;

RECALLING that a Working Group, composed of two senior officials selected by each Party, whose duties pertain to the regulation or management of toxic substances, was established under Council Resolution 95-05 to work with the Commission for Environmental Cooperation (CEC) to implement the decisions and commitments set out in that resolution;

NOTING that, under the guidance of the Working Group, a Criteria Task Force has developed a *Process for Evaluating Candidate Substances for Regional Action Under the Sound Management of Chemicals Initiative* in response to Council instructions to develop refined criteria for identifying persistent and toxic substances for regional action;

FURTHER NOTING that, under this process, the Working Group has forwarded, for review and revision, nomination dossiers for dioxins and furans, and for hexachlorobenzene to the Substance Selection Task Force established by the Working Group to oversee the application of this process;

TAKING INTO ACCOUNT that the Working Group has approved, for public review and comment, the Stage III decision documents for dioxins and furans, and for hexachlorobenzene that were prepared by the Substance Selection Task Force, and that the period for public review and comment is scheduled to continue until 31 August 1999;

NOTING that the Substance Selection Task Force has recommended, in these Stage III decision documents, the preparation of a North American Regional Action Plan (the “NARAP”) for these candidate substances;

RECALLING that dioxins and furans, and hexachlorobenzene are included in the list of persistent organic pollutants identified in the Governing Council Decision 18/32 of May 1995 of the *United Nations Environment Programme*, in the *Protocol on Persistent Organic Pollutants* of the United Nations Economic Commission for Europe developed under the 1979 *Convention on Long-Range Transboundary Air Pollution*, and in Annex I to the Council Resolution 95-05 on the Sound Management of Chemicals;

RECOGNIZING that significant national and international initiatives with respect to dioxins and furans, and hexachlorobenzene are under way;

FURTHER RECOGNIZING that dioxins and furans, and hexachlorobenzene are organic pollutants which are toxic, persistent and bioaccumulative and which can be transported long distances through atmospheric and aquatic pathways; and

CONVINCED that continued releases of these substances pose unreasonable and otherwise unmanageable risks to the environment and human health in Canada, Mexico and the United States and that practical measures are available to reduce these risks;

HEREBY DIRECTS the Working Group to develop one NARAP for dioxins and furans, and hexachlorobenzene, taking into account:

- a) the Parties’ resource considerations, capacity building requirements and ability to enhance capacity through various funding sources;
- b) practical opportunities to cooperate in the development and timing of effective regional approaches and opportunities to encourage complementary national approaches for assessing and addressing these substances in a manner that respects the different environmental, economic, political and regulatory circumstances of the Parties;
- c) opportunities to share expertise, experience and technology for assessing and addressing the exposure to and risks of these substances to humans and the environment;
- d) the potential to utilize other Sound Management of Chemicals initiatives, such as the NARAP on Environmental Monitoring and Assessment, to improve the capacity to assess the exposure to, and risks of, these substances to humans and the environment;
- e) comments received from the public during the course of the period for public review and comment on the Stage III decision document;
- f) the timing of, and information emanating from, the national and international reviews of these substances now under way;

- g) other opportunities to encourage and provide for meaningful participation of the public, and technical and policy experts, in developing this NARAP.

APPROVED BY THE COUNCIL:

Carol M. Browner
Government of the United States of America

Julia Carabias Lillo
Government of the United Mexican States

Christine Stewart
Government of Canada

Banff, 28 June 1999

COUNCIL RESOLUTION: 99-02

Developing a North American Regional Action Plan on Environmental Monitoring and Assessment

THE COUNCIL:

RECOGNIZING that certain persistent, toxic, and bioaccumulative chemicals released to the environment as a result of human activity pose high risks to the environment, to ecosystems, to human health and to sustainable development in North America, and that some of these substances are being or are likely to be addressed under the Sound Management of Chemicals (SMOC) initiative, in accordance with Council Resolution 95-05;

FURTHER RECOGNIZING that convenient and dependable access to and dissemination of relevant, reliable and comparable monitoring information, along with sound interpretive assessments based on that information, are crucial to the effective management of such substances as well as to the confirmation and quantification of progress in respect to such management;

ALSO RECOGNIZING that the operational integration of modeling and research components with monitoring and assessment functions is necessary for the sound management of such substances;

CONSCIOUS of a need for ongoing assurance that scientifically-based data and interpretations derived by the NAFTA countries with respect to such substances are accessible, comparable, continuing, and of known quality, as well as of a need for ongoing assurance that this information is adequate and appropriate for its intended purposes;

NOTING Council Resolution 95-05 which creates the North American Working Group for the Sound Management of Chemicals (the "Working Group");

TAKING INTO ACCOUNT the advice of the Working Group on the need to develop a North American Regional Action Plan (NARAP) promoting collaboration and cooperation between and among the Parties for the purpose of upgrading monitoring and assessment functions and related activities to support the SMOC initiative;

HEREBY DIRECTS the Working Group to develop a NARAP on Environmental Monitoring and Assessment in support of the SMOC initiative which, among other things, promotes collaboration with regard to the acquisition of environmental data and information for purposes of assessing the exposure to such substances and the risks they pose to human health and the environment;

FURTHER DIRECTS that the Working Group should focus on substances currently covered by the SMOC initiative, although it should also look to identify other substances to be possibly considered under the SMOC initiative; and

ENCOURAGES the Working Group to build upon existing infrastructure and institutional arrangements in developing the NARAP.

APPROVED BY THE COUNCIL:

Carol M. Browner
Government of the United States of America

Julia Carabias Lillo
Government of the United Mexican States

Christine Stewart
Government of Canada

Banff, 28 June 1999

COUNCIL RESOLUTION: 99-03

North American Bird Conservation Initiative

THE COUNCIL:

MINDFUL of the need to address conservation of all bird species in North America through a holistic and cooperative trinational strategy that is respectful of the laws, programs and economic and social needs of each country;

RECOGNIZING that at least 20 percent of the world's bird species inhabit North America and that many of these birds are endemic, while some are of limited distribution and thus highly vulnerable;

ACKNOWLEDGING that some bird populations are in decline and that part of the diversity of birds present in North America is either endangered, threatened or vulnerable;

TAKING INTO ACCOUNT that birds perform integral functions in ecosystem dynamics, not only as critical links in the food chain, but also through pest control, pollination and seed dispersal;

MINDFUL that birds are a natural economic resource that contribute to the prevention of major losses in agricultural and forestry production, and in the creation of new opportunities for socio-economic development;

WISHING TO complement existing arrangements and treaties among the Parties designed to protect certain groups of birds, such as the North American Waterfowl Management Plan and the Western Hemisphere Shorebird Reserve Network Program, as well as the work of various public and private organizations;

BUILDING on the "Cooperation for the Conservation of Birds of North America" (Commission for Environmental Cooperation (CEC) project 98.02.01), as well as further developing the efforts of the CEC to facilitate the establishment of a North American Network of Important Bird Areas;

ACKNOWLEDGING the efforts of increased cooperation, facilitated by the CEC, that have resulted in the creation of the interim Trinational Steering Committee for the North American Bird Conservation Initiative (NABCI) and the interim NABCI National Steering Committees in Canada, Mexico and the United States, as well as many other multinational, multisectoral groups;

RECOGNIZING that NABCI is an initiative that: (1) seeks to achieve regionally-based, biologically-driven, habitat-oriented partnerships representing the full spectrum of bird conservation measures across the entirety of the North American continent; (2) supports simultaneous, on-the-ground delivery of conservation measures for all birds; and (3) facilitates the conservation of all native North American birds by enhancing coordination of programs and initiatives—both existing and new—to increase their effectiveness, and fostering greater cooperation among the nations and peoples of the continent; and

TAKING NOTE of the strategy and action plan developed by the working group in collaboration with the Secretariat of the CEC in accordance with Council Resolution 96-02, which called for the development of such a strategy and action plan based on a set of goals, objectives and approaches for the conservation of the birds of North America;

HEREBY:

APPROVES the NABCI strategy and action plan, which sets forth preliminary goals, objectives and actions for the conservation of all birds of North America;

ACKNOWLEDGES that upon their establishment, each National Steering Committee shall develop and implement specific national action plans that are unique to each country, but which are also implemented in coordination with the other committees to achieve the broad outcomes of the NABCI;

REITERATES its commitment to the conservation of the birds of North America by maintaining continued CEC support, for a three-year period, of NABCI; and

ENCOURAGES the Parties to consider as pilot sites for the development of cooperative efforts, for Important Bird Areas for the conservation of birds in North America.

APPROVED BY THE COUNCIL:

Carol M. Browner
Government of the United States of America

Julia Carabias Lillo
Government of the United Mexican States

Christine Stewart
Government of Canada

Banff, 28 June 1999

COUNCIL RESOLUTION: 99-04

The Upper San Pedro River Initiative

THE COUNCIL:

RECALLING Council Resolution 96-02, which recognizes the San Pedro Riparian National Conservation Area (Arizona, United States of America) as a site important to the conservation of North American birds, and which encourages the Parties to the North American Agreement on Environmental Cooperation (the “Agreement”) to consider it as a pilot site for the development of cooperative efforts to conserve areas critical to the conservation of birds in North America;

PURSUANT to the Secretariat's notification to the Council, dated 27 May 1997, regarding the preparation of a report to the Council on potential actions to protect and enhance bird habitat along the upper San Pedro River under Article 13 of the Agreement;

COMMENDING the Upper San Pedro Expert Team for preparing a science-based evaluation of the state and sustainability of the riparian habitat along the upper San Pedro River, and the Upper San Pedro Advisory Panel for developing and proposing pragmatic recommendations aimed at preserving the riparian habitat along the upper San Pedro River;

ACKNOWLEDGING the extraordinary ecological significance of the binational San Pedro River basin, including its role as an important corridor for migratory birds, and emphasizing the value placed on this resource by local, national and international communities;

CONCERNED that the upper San Pedro River is threatened by unsustainable water-use patterns;

RECOGNIZING the need and importance for cross-border cooperation to protect and conserve valued transboundary ecological resources;

MINDFUL of the need to respect local, tribal, state and national jurisdictions and the unique cultural, economic and social characteristics of the upper San Pedro River basin;

CONVINCED that locally-based solutions are essential and that participatory and straightforward processes must be designed to ensure that locally-based solutions are proposed and adopted;

RECOGNIZING the decisions reached by Mexico's Secretariat of Environment, Natural Resources and Fisheries (Semarnap) and the US Department of the Interior (DOI) at the Binational Commission meeting in Mexico City on 4 June 1999, and the joint declaration signed by the same departments on 22 June 1999, establishing a binational work program on the upper San Pedro River basin-Los Ajos as well as the growing number of promising state, tribal, local and private conservation initiatives underway in the watershed.

HEREBY AGREES TO:

RELEASE to the public the report, *Ribbon of Life, An Agenda for Preserving Transboundary Migratory Bird Habitat on the Upper San Pedro River*, prepared under Article 13 of the Agreement;

EXAMINE the Article 13 report findings and identify possible roles for the Commission for Environmental Cooperation, including identification of possible funding mechanisms, in any potential implementation of the report's recommendations, consistent with the trilateral mandate of the Agreement and in coordination with ongoing bilateral efforts.

APPROVED BY THE COUNCIL:

Carol M. Browner
Government of the United States of America

Julia Carabias Lillo
Government of the United Mexican States

Christine Stewart
Government of Canada

**Call for Papers
for the first
North American Symposium
on
Understanding the Linkages between Trade and Environment

October 2000**

The Commission for Environmental Cooperation announces a call for papers for the first North American Symposium on Understanding the Linkages between Trade and Environment, to be held in October 2000.

The purpose of this symposium is to bring together the leading institutions and organizations in North America to discuss the linkages between environment and trade in the NAFTA context and, in particular, to encourage further analysis in light of the methodology developed by the CEC in the *Final Analytic Framework for Assessing the Environmental Effects of NAFTA*. The overall goal of this symposium is to advance the understanding of linkages between environment, economy, and trade, in order to strengthen environmental protection in the region. Enhancing our understanding of environment and trade linkages will enable the NAFTA partners to optimize the benefits of free trade and mitigate any negative impacts. Results from the symposium will also point out promising areas for further study.

Papers will be considered for presentation in several areas, including:

1. Applications of the CEC's *Final Analytic Framework for Assessing the Environment Effects of NAFTA* to particular sectors of the North American economy, or to particular issues of environmental significance in North America;
2. Development and application of the framework to particular issues associated with NAFTA on a region-wide basis, such as the patterns of environmental regulation and enforcement and associated shifts in transborder investment;
3. The development of links between NAFTA-associated trade and investment on the one hand and environmental performance on the other;
4. Applications using quantitative economic and ecological models, such as computable general equilibrium, partial equilibrium and econometric models, and those that integrate trade and environmental variables;
5. Application and analytical development of key components of the framework, such as the transborder diffusion of environmental technology, and the performance of NAFTA's trade- and environment-related institutions;
6. Comparisons of the CEC's framework with those developed for use in other regions;
7. Comparisons of the environmental impact of the NAFTA-based North American regime for trade and environment and experience with those of other regional and global regimes.

The CEC is soliciting abstracts (maximum 300 words) that include a general description of the issue the paper will address and summarize its treatment in the study. Proposed

abstracts, accompanied by a brief professional biography of the author, should be submitted to the CEC Environment, Economy and Trade Program by **29 October 1999**.

These abstracts will be reviewed by the NAFTA Effects Advisory Group. Papers will be selected for presentation based on their scientific merit, their relevance to the application and development of the framework, and their ability to deal with critical areas of environment-trade linkages in North America. Successful applicants will be notified by **31 December 1999**.

Completed papers should be no more than 50 pages in length, be accompanied by an executive summary, and may be submitted in English, French or Spanish. Final papers must be received at the CEC Secretariat no later than **29 July 2000**. All selected papers will be peer reviewed, the results of which will be made available to the authors for their use in revision. Final copies of all papers will be submitted to the CEC Secretariat at the symposium for publication in a symposium proceedings.

For other information or to submit proposals, please contact the CEC's Environment, Economy and Trade Program.

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Banff, 28 June 1999

COUNCIL RESOLUTION: 99-06

Adoption of the Revised Guidelines for Submissions on Enforcement Matters Under Articles 14 and 15 of the North American Agreement on Environmental Cooperation

THE COUNCIL:

HAVING adopted in Oaxaca, on 13 October 1995, the *Guidelines for Submissions on Enforcement Matters under Articles 14 and 15 of the North American Agreement on Environmental Cooperation* (the “guidelines”);

GIVEN that Section 19.1 of the guidelines states that the Council would initiate a review process of the operation of these guidelines;

CONSIDERING the draft revisions to the guidelines approved by Council in Mérida, on 26 June 1998, and their release for public review and comment through the Joint Public Advisory Committee (the “JPAC”);

MINDFUL of the public comments received, and of JPAC Advice 99-01 of 25 March 1999, in relation to the text of the revised guidelines;

RECOGNIZING that the revisions are designed to improve transparency and fairness of the public submissions process and are consistent with Article 11(4) of the North American Agreement on Environmental Cooperation (the “Agreement”) and the Council’s commitment to a process that honors the Secretariat’s decision-making role under Article 14 of the Agreement;

NOTING the continuing importance of also concluding work on “Part V Model Rules” and the decision of Council, taken 25 June 1998, in Mérida, that the Model Rules

provided for in Article 28 of the Agreement (the “Part V Model Rules”) would be finalized within the same time frame as the revision of the guidelines;

HEREBY APPROVES the attached revised guidelines in anticipation of diligent finalization of Part V Model Rules.

APPROVED BY THE COUNCIL:

Carol M. Browner
Government of the United States of America

Julia Carabias Lillo
Government of the United Mexican States

Christine Stewart
Government of Canada

Banff, 28 June 1999

COUNCIL RESOLUTION: 99-05

2000 Funding of the Commission for Environmental Cooperation

THE COUNCIL:

RECOGNIZING the importance of the *North American Agreement on Environmental Cooperation* in conserving, protecting and enhancing the environment;

ACKNOWLEDGING the importance of sustaining key cooperative activities through an adequate level of funding;

HEREBY AGREES that the budget of the Commission for Environmental Cooperation (CEC) for the financial year 2000 shall be established in Canadian dollars at a level equal to US\$9 million at the Bank of Canada exchange rate in effect on an established date, which shall be no later than 31 December 1999.

FURTHER AGREES that the budget shall be equally divided among the three Parties and that each Party shall contribute an equal share of the annual budget of the Commission, subject to the availability of appropriated funds in accordance with the Party's legal procedure. Each Party shall make its contribution in its national currency. The annual amount of a Party's contribution in its national currency for the year 2000 shall be fixed at the Bank of Canada exchange rate in effect on an established date, which shall be no later than 31 December 1999.

APPROVED BY THE COUNCIL:

Carol M. Browner
Government of the United States of America

Julia Carabias Lillo
Government of the United Mexican States

Christine Stewart
Government of Canada

**Canada, Mexico and the United States join forces to reduce toxic substances,
protect birds and save a major river basin as CEC Council meeting concludes in Banff**

Banff, Alberta, 28 June 1999—The environment ministers of Canada, Mexico and the United States today directed the Commission for Environmental Cooperation (CEC) to develop an action plan to reduce the presence in the environment of the highly toxic substances dioxins and furans, and hexachlorobenzene, to further protect human health and the environment in North America. The decision was one of a number of initiatives announced by the Council of the CEC as it wrapped up its Sixth Session in Banff today.

In other decisions, the Council gave the CEC the green light to launch the North American Bird Conservation Initiative (NABCI) to protect critical bird habitat across the continent, and to develop an implementation strategy to protect the upper San Pedro River, one of North America's most important migratory bird corridors.

The CEC Council members are Canadian Environment Minister Christine S. Stewart, Mexican Secretary for the Environment, Natural Resources, and Fisheries, Julia Carabias Lillo, and US Environmental Protection Agency Administrator Carol M. Browner. The Council meets at least once a year to review and direct the program activities of the Commission and to receive public input and advice from the Joint Public Advisory Committee (JPAC) and other stakeholders.

The Council acknowledged and thanked the Joint Public Advisory Committee for the important contribution it has made in engaging the public and a variety of stakeholders in the work of the CEC and bringing their views to the attention of the Council.

The success of this meeting was evidenced by the following agreements and work:

Sound Management of Chemicals

In announcing the development of a North American Regional Action Plan (NARAP) to reduce releases into the environment of dioxins and furans, and hexachlorobenzene, the Council reaffirmed its commitment to reduce chemical pollutants affecting the health of their citizens, particularly children.

Minimizing exposure to dioxins and furans will reduce the risk of cancer and damage to immune, neural, endocrine and reproductive systems. Similarly, taking action on hexachlorobenzene will reduce the health risks to breast-fed infants in certain populations heavily dependent on fish.

The Council also agreed to develop an environmental monitoring and assessment action plan in support of the sound management of chemicals. The Council emphasized the importance of monitoring to improve the relevance, reliability and comparability of environmental information as the basis for decision making, and underscored the critical role of building human, technical and institutional capacity at national and community levels to implement NARAPs and improve the management of chemicals in general.

Strengthening Environment and Trade Relationships

The Council reaffirmed the importance of working together to make trade and environment mutually supportive. It announced the first ever North American Symposium on Understanding the Linkages between Trade and Environment, to be held in October 2000. In preparation for the conference, the Council released a "Final Analytical Framework for Assessing the Environmental Effects of NAFTA" and

issued a call for papers encouraging academics, researchers and policy experts to test the NAFTA effects framework for specific situations.

The Council noted that the discussions between trade and environment officials on Article 10(6) of the North American Agreement on Environmental Cooperation (NAAEC) have been very useful in elaborating the operational relationship between the CEC and the Free Trade Commission (FTC). Trade and environment officials have also been discussing areas of future joint work with regard to the environment, economy and trade. The Council emphasized the importance of this work and encouraged the ongoing process to move forward.

The Council recognizes the sovereign right of governments to legislate in the area of the environment. The Council fully supports and encourages the FTC to continue discussions on NAFTA Chapter 11 (relating to the investor-state dispute settlement process). The Council offers to provide any assistance required by the FTC.

Promoting Effective Enforcement and Compliance

The Council agreed on revised guidelines for submissions on enforcement matters under Article 14 of the NAAEC, governing submissions by the public asserting that a Party to the agreement is failing in the effective enforcement of its environmental law.

Transboundary Environmental Impact Assessment

The Council discussed in depth the difficulties facing negotiators in concluding an agreement on transboundary environmental impact assessment because of the differences in the environmental management systems of the three countries. Council members agreed to work with their respective negotiators and individual border states and provinces to build “good neighbor” agreements based on reciprocity. The goal is to ensure transparency and participation in the processes for proposed projects with environmental consequences in border regions. The Council asked the Secretariat to support the effort by collaborating with negotiators to compile as quickly as possible an inventory of the federal, provincial and state processes and terminology involved.

Pollutant Release and Transfer Registers (PRTR)

The Council reaffirms its commitment to assure that the peoples of North America have access to accurate information about the release and transfer of toxic chemicals from specific facilities into and through their communities. The Council supports the continued development and improvement of the North American PRTR system, with a goal of mandatory reporting for all nations.

North American Bird Conservation Initiative (NABCI)

The Council approved an action plan to conserve birds and their vital habitat through a broad range of strategies based on ecosystems across North America. This initiative represents an unprecedented effort by over 200 public and private organizations, agencies and groups to coordinate actions across borders to ensure the long-term survival of more than 1,400 species of birds throughout Canada, Mexico and the United States. This effort is the culmination of work by the CEC in identifying habitat critical to the preservation of bird species.

Upper San Pedro River Initiative

The San Pedro River originates in Sonora, Mexico, flowing north into Arizona in the United States. The river constitutes one of the most important North American corridors for migratory birds traveling between Canada and Mexico, and was highlighted by the Council in 1996 at its meeting in Toronto.

The Council voted unanimously to release *Ribbon of Life*, the CEC's report on preserving transboundary bird habitat on the upper San Pedro River. The Council commended the expert panel for preparing a science-based report, the advisory panel for formulating pragmatic solutions in the basin, and the CEC for its successful role in catalyzing a discussion among a diversity of stakeholders leading to a growing number of promising state local and federal initiatives on both sides of this transboundary watershed. The Council encouraged the CEC's continuing participation with a view to the emergence of this initiative as a model of cooperation in the management of transboundary resources.

The Silva Reservoir

In partnership with the CEC, the governments of Mexico and the state of Guanajuato, and local community organizations, with the cooperation of Canada and the United States, worked together to clean and restore the Silva Reservoir. As a result of their actions, the local community was provided with cleaner water and an important habitat for migratory birds was rehabilitated. The reservoir, which had been polluted by industrial discharges, was the site of mass mortality of thousands of waterfowl in 1994.

CEC Budget and Next Meeting of the Council

The Council agreed to meet in the United States at its next regular session in June 2000 and to fund the CEC at the level of US \$9 million for the year 2000.

The Commission for Environmental Cooperation is an international organization created under the North American Agreement on Environmental Cooperation to address regional environmental concerns, help prevent potential trade and environmental conflicts, and promote effective enforcement of environmental law. The CEC mission underscores the importance of public participation to foster conservation of the North American environment.

For more information, contact Corrie Castelló at the CEC Secretariat: (514) 350-4300 (telephone), (514) 350-4314 (Fax). The CEC's web site can be found at <http://www.cec.org>.

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