

SESSION 99-02 OF ALTERNATE REPRESENTATIVES

Held via conference call on 9 March 1999

SUMMARY RECORD

The Council, represented by the Alternate Representatives, met via conference call on 9 March 1999. Ms. Norine Smith (Canada) chaired the meeting. Mr. José Luis Samaniego and Mr. William Nitze represented Mexico and the United States, respectively. Mr. Peter Berle, represented JPAC and Ms. Janine Ferretti, Interim Executive Director, represented the Secretariat. Mr. Marc Paquin, Council Secretary, was the session secretary. Other officials from the Parties and the Secretariat were also in attendance.

Item 1 Adoption of the agenda

The Alternate Representatives adopted the agenda for the session based on the provisional agenda with the understanding that discussion on items 4, 9, 10, 12, 14 and 15 be deferred to the next session (Annex A). At the request of Mexico, the item "Financial Support for CICEANA (North American Environment, Information and Communication Center)" was added under item 15.

With respect to item 12 of the agenda, the Interim Executive Director asked the Parties to confirm their acceptance of a revised timeline for the development of the Program Plan 2000-2002, including the 2000 Annual Program and Budget, which provides for the submission of the first draft of the program plan to the Council towards the end of August 1999. The Parties expressed their desire to engage in a discussion to improve on the current format of the Three Year Program Plan, which would be more strategic and would include specific goals and expected results.

Item 2 Report by the Interim Executive Director

The Interim Executive Director deferred her report until the next session of Alternate Representatives scheduled 8 April 1999.

Item 3 Statement by the Chair of JPAC

Mr. Peter Berle reported on JPAC activities including, the public workshop conducted by JPAC on 29 January 1999 in Montreal to review the proposed revised Guidelines for Submissions on Enforcement Matters under Articles 14 and 15. He indicated that JPAC anticipates to finalize its advice to the Council on this issue at its session scheduled 25-26 March 1999 in Mexico City. Responding to a concern expressed by Mexico, Mr. Berle confirmed that the consultation process had culminated and that the recommendation would be finalized on that occasion. He elaborated on the March session indicating that, at this session, JPAC will be reviewing the agenda for the next session of the Council and will be heading a roundtable on the CEC Program Plan for 1999-2001. In addition, NAFEC grantees and other NGOs representing small producers of sustainable products have been invited to attend the session on 25 March to provide feedback on the result of their meeting scheduled 22-24 March in Oaxtepec.

Mr. Berle also confirmed that JPAC will hold a joint meeting with the North American Working Group on Sound Management of Chemicals on 7-8 May in Anchorage, Alaska. This meeting also coincide with a meeting of senior officials of the Arctic Council. He also mentioned JPAC's intention to provide advice to the Council on the opportunity to involve remote communities in the work of the CEC.

Mr. Berle drew the attention of the Parties on the need to fill the vacancies on the JPAC membership and stressed the importance of filling the position of Executive Director of the CEC as soon as possible in order to strengthen the CEC. In response, Canada and Mexico indicated that they anticipate to nominate new members on the JPAC fairly soon. Mr. Berle also raised the urgency for the Parties to replace the current members of the NAFEC Selection Committee, who were all appointed in 1996 for a two-year term. He indicated that the fact that a JPAC member held a seat on the committee proved to be helpful in ensuring better coordination and information and that this practice should therefore be maintained.

In response to a question on the status of the public participation framework, the JPAC Coordinator indicated that the draft framework was currently being circulated among JPAC members for comments and will be released to the public on 19 March for a one-month public comment period.

Item 4 Approval of Summary Records

Discussion of this item was postponed to the next session.

Item 5 Environment and Trade Officials meeting

The Parties agreed to attempt to reschedule the 8 March meeting to 7 April 1999 in Montreal.

Item 6 TEIA

The Alternate Representatives undertook to encourage their Heads of delegation to work towards finalizing the agreement prior to the June 1999 session of the Council. They also agreed to hold their next meeting in parallel with the TEIA meeting scheduled for 7-9 April 1999.

Item 7 BC Hydro Submission

Canada indicated that it will provide the Secretariat and other key stakeholders, with information in writing to be used in the preparation of the BC Hydro factual record.

On the overall process for developing factual records, Canada indicated a need for additional discussion at the next Alternate Representatives' session, in order to narrow the issues for the Council's discussion in June. The US indicated it is currently developing an analysis of the various issues involving preparation of factual records. Mexico underlined the need for the Parties to reach a consensus on the process. The JPAC representative stressed the importance of inviting the public to comment on this issue, as it was consulted twice already on the Articles 14 and 15 guidelines.

Item 8 1999 Regular Session of the Council

The Alternate Representatives reviewed the preliminary program and provisional annotated agenda for the session and agreed to hold an Alternate Representatives' session in the afternoon of 29 June. The Alternate Representatives directed the GSC to reorganize the agenda based on themes from the Shared Agenda and to submit a revised version for their approval in the course of the following week (15 March), in time for the public release of the provisional program and agenda scheduled for the end of March.

Item 9 NAFEC Selection Committee – Appointment of new members

This item was addressed under item 3. Further discussion was deferred to the next session.

Item 10 NAAEC Articles 14 and 15: Letter from CEMDA relating to the Cozumel Factual Record

Discussion on this item was deferred to the next session.

Item 11 NAAEC Article 28 - Model Rules of Procedure

Discussion on this item was deferred to the next session.

Item 12 Timeline for preparation of the 2000-2002 Program Plan and 2000 Annual Program and Budget

This item was addressed under item number 2 of the agenda.

Item 13 Financial Matters**Item 13.1 Status of CEC finances**

The Secretariat presented the Financial Report for the period ending 31 December 1998 with a Contribution Analysis for the years 1997 and 1998. The Financial Report showed that the 1998 carry over into the year 1999 will be \$US 105,000 and not US\$ 450,000 as informed by the Secretariat in the 1999 budget. Also, the final report in 1997 commitments shows a shortfall of \$US 190,000 (C\$245,000) due to exchanges rates. Mexico expressed its concern about the impact of exchange rate fluctuations on its contribution.

The Parties asked the Secretariat to propose options for resolving these issues, with the least disruptive impact on the achievement of CEC goals.

Item 13.2 US Income Tax – status and reimbursement

Discussion on this item was deferred to the next session.

Item 14 Administrative Matters**Item 14.1 Spanish version of CEC Rules**

Discussion on this item was deferred to the next session.

Item 14.2 Agreement with the Province of Québec, including tax reimbursement

Discussion on this item was deferred to the next session.

Item 15 Other issues: CICEANA

Discussion on this item was deferred to the next session.

Item 16 Scheduling of next sessions of Alternate Representatives

The Parties agreed to a meeting of Trade and Environment Officials on 7 April 1999 in Montreal, subject to the availability of their Trade counterparts. They also agreed to reserve the latter part of the day to be available to consult in support of the TEIA meeting, should it be necessary. The 2nd day (8 April) would be devoted to a regular session.

Item 17 Closure of the session

The Chairperson closed the session.

DRAFT PROVISIONAL AGENDA

TELECONFERENCE SESSION 99-02 OF ALTERNATE REPRESENTATIVES

To be held via conference call on Tuesday, 9 March 1999, from 10:00 AM to 2:00 PM (EST)
(9:00 AM to 1:00 PM, Mexico time)

CHAIR: Canada

- Item 1 Adoption of the Agenda
- Item 2 Report by the Interim Executive Director
- Item 3 Statement by the Chair of JPAC
- Item 4 Approval of the summary records
- Item 5 NAAEC Article 10(6) - Environment and Trade Officials meeting
- Item 6 Negotiations of the North American Agreement on Transboundary Environmental Impact Assessment (TEIA)
- Item 7 B.C. Hydro Submission
- Item 8 1999 Regular Session of the Council
 - Item 8.1 Critical path and program for the session
 - Item 8.2 Potential agenda items/deliverables/announcements
- Item 9 NAFEC Selection Committee – appointment of new members
- Item 10 NAAEC Articles 14 and 15: Letter from CEMDA relating to the Cozumel Factual Record
- Item 11 NAAEC Article 28 - Model Rules of Procedure
- Item 12 Timeline for preparation of the 2000-2002 Program Plan and 2000 Annual Program and Budget
- Item 13 Financial Matters
 - Item 13.1 Status of CEC finances
 - Item 13.2 US Income Tax – status and reimbursement
- Item 14 Administrative Matters
 - Item 14.1 Spanish version of CEC Rules
 - Item 14.2 Agreement with the Province of Québec, including tax reimbursement
- Item 15 Other issues
- Item 16 Scheduling of next sessions of Alternate Representatives
- Item 17 Closure of the session

SESSION 99-02 OF ALTERNATE REPRESENTATIVES

ANNOTATIONS TO THE PROVISIONAL AGENDA

Item 1 Adoption of the agenda

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

The Alternate Representatives are expected to adopt the agenda for the session.

DOCUMENTS:

- a) Provisional annotated agenda (distributed 08-03-99) C/C.01/99-02/AGEN/01/Rev.3

Item 2 Report by the Interim 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 Secretariat activities.

DOCUMENTS: No document

Item 3 Statement by the Chair of JPAC

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

DOCUMENTS:

- a) Report from the JPAC workshop on the revised Articles 14 and 15 Guidelines held 29 January in Montreal (distributed) J/RPT/01
- b) Provisional annotated agenda for JPAC session 99-01 scheduled 25-26 March 1999 (distributed 3-2-99) J/99-01/AGEN

Item 4 Approval of summary records

In accordance with Council Rules of Procedure (R. 11), the Executive Director prepared the summary records of Alternate Representatives sessions. Speakers may submit corrections to the summary records of their remarks before they are finally approved by the Council (R.11). The Alternate Representatives are expected to review and approve the summary records of sessions 98-09 and 99-01.

DOCUMENTS:

- a) Session 98-09 Summary Record (distributed 7-1-99) C/C.01/98-09/SR/01
- b) Session 99-01 Summary Record (distributed 25-1-99) C/C.01/99-01/SR/01

Item 5 NAAEC Articles 10(6) - Environment and Trade Officials meeting

The Parties are expected to discuss next steps following the postponement of the Environment and Trade officials meeting initially scheduled for 8 March 1999.

DOCUMENTS:

- a) Draft agenda (distributed)
- b) JPAC Advice 98-08: Article 10(6) of the North American Agreement on Environmental Cooperation (distributed 10-12-98) J/98-08/ADV

Item 6 Negotiations of the North American Agreement on Transboundary Environmental Impact Assessment

The Alternate Representatives are expected to discuss the status of the negotiations of the Agreement in light of the recent discussions among the Parties' negotiators.

DOCUMENTS: No documents

Item 7 BC Hydro Submission

The Parties are expected to discuss the interpretation of Articles 14 and 15.

DOCUMENTS: No documents

Item 8 1999 Regular Session of the Council

The Parties are expected to initiate discussions on the preparation of the 6th Regular Session of the Council to be held 28 and 29 June 1999 in Banff, Canada. As discussion of the substantive agenda and announcements is critical for the timely preparation and finalization of the supporting documentation, the Parties are invited to focus more specifically on the announcements/deliverables, general program, provisional agenda and critical path. The host country (Canada) is expected to confirm the venue for the Session.

Item 8.1 Critical Path and program for the session

The Parties are expected to review the critical path which establishes deadlines for the effective organization of the session, as well as the preliminary program for the session

DOCUMENTS:

- a) Critical path (distributed 17-2-99) C/C.01/99-00/PLAN/01/Rev.2
- b) Preliminary program (distributed 20-1-99) C/99-00/PROG/01

Item 8.2 Agenda items/Deliverables/Announcements

The Alternate Representatives are expected to discuss the list of potential agenda items and announcements for the next regular session of the Council.

DOCUMENTS:

- a) List of potential agenda items and announcements (distributed 1-2-99) C/99-00/DISC/01/Rev.2
- b) Background information relating to agenda items and announcements (distributed 1-2-99) C/99-00/BACK/00
- c) Draft provisional agenda (distributed 17-2-99) C/99-00/AGEN/01

Item 9 NAFEC Selection Committee – Appointment of new members

The NAFEC Selection Committee is comprised of 6 members, two from each country, who were appointed by the Council on 2 May 1996 for a two-year term. The quorum for the committee consists of 4 members, with a minimum of one from each country. As per the Memorandum from the Secretariat addressed to the Alternate Representatives on 22 September 1998, the Parties are asked to each appoint a new member to serve on the NAFEC Selection Committee, prior to the 1999 Grant Cycle.

DOCUMENTS:

- a) Memo to Alternate Representatives from NAFEC Coordinator dated 22 September 1998
- b) NAFEC Administration and Funding Guidelines
- c) 1999 Call for Preproposals (distributed 20 January 1999)
- d) Memo to Alternate Representatives from NAFEC Coordinator dated 15 February 1999

Item 10 NAAEC Articles 14 and 15: Letter from CEMDA relating to the Cozumel Factual Record

In a letter dated 16 November 1998, Centro Mexicano de Derecho Ambiental (CEMDA) requests the Council to examine and provide an opinion and recommendation in accordance with Article 10(2)(p) of NAAEC on the factual record

developed by the CEC with respect to the “Cozumel” Submission. The Alternate Representatives are expected to discuss the legal and policy issues raised by that letter.

DOCUMENTS:

- a) Letter from CEMDA addressed to the Interim Executive Director on 10 November 1998 (distributed 25 November 1998)

Item 11 NAAEC Article 28 - Part V Model Rules of Procedures

The Alternate Representatives are expected to take note that the Heads of delegations will hold a conference call on 25 March reschedule the negotiating session initially scheduled for 8 to 11 February 1999 in Mexico City. As agreed by the Council at its 1998 Regular Session, Part V Model Rules are to be finalized within the same timeframe as the completion of the revised Articles 14 and 15 Guidelines.

DOCUMENTS: No documents

Item 12 Timeline for preparation of the 2000-2002 Program Plan and Annual Program and Budget 2000

Further to the approval by the Council in June 1998 of the Program Development Cycle for 1999 and beyond, the Parties have expressed the need for more time to review proposed Annual Programs and Budgets and conduct their internal consultations. Accordingly, the Secretariat is submitting a timeline for the development of the Three-Year Program Plan 2000-2002 and Annual Program and Budget 2000, for review and approval by the Alternate Representatives.

DOCUMENTS:

- a) Memo to Alternate Representatives from Interim Executive Director dated 1 March 1999 (distributed 1-3-99)
- b) Timeline for the development of the Three Year Program Plan 2000-2002/Annual Program and Budget 2000 and beyond (distributed 1-3-99)

Item 13 Financial Matters

Item 13.1 Status of CEC finances

Under this item, the Secretariat will provide the Parties with a financial update. More specifically, as requested by the Alternate Representatives at their last session, the Secretariat will present an analytical paper presenting the current financial situation of the CEC in relation with the Parties’ contributions.

In addition, as part of the external audit of the CEC’s 1997 financial statements, Mexico is asked to provide confirmation of its contributions for the year 1997, as per the request of the CEC’s auditors, Samson Bélair, Deloitte & Touche, dated 25 February 1998.

DOCUMENTS:

- a) Financial Report – December 31, 1998 and Contribution Analysis for the Years 1997 and 1998 (distributed 4-3-99)
- b) Letter from Interim Executive Director to SEMARNAP, dated 25 February 1998

Item 13.2 US Income Tax – Status reimbursement

United States is asked to report on the developments relating to the reimbursement to the CEC by EPA of income tax paid on behalf of US citizens employed by the CEC. So far, the CEC has paid C \$41,781.

DOCUMENTS:

- a) Session 96-07 final Summary Record C/C.01/96-07/SR/final
- b) Session 96-10 final Summary Record C/C.01/96-10/SR/final

Item 14 Administrative Matters

Item 14.1 Spanish Version of CEC Rules

During their last session held in January (Session 99-01) the Alternate Representatives instructed their legal officials to meet and finalize the Spanish version of the rules for adoption at their next session. As the legal officials have not yet finalized their revision of the Spanish version, the Alternate Representatives are expected to postpone their review and approval of the rules to their next session.

DOCUMENTS: No documents

Item 14.2 Agreement with the Province of Québec, including tax reimbursement

Pursuant to Resolution 95-04 and Summary Records of sessions 95-02, on 29 July 1998 the Secretariat forwarded to the Parties a copy of the Agreement between the CEC and the Government of Québec, for their review and approval. The Parties are expected to clear the signature by the Secretariat of the Agreement on behalf of the CEC in accordance with the above-mentioned resolution.

The Government of Québec is awaiting the signature of the above-mentioned agreement in order to reimburse to the CEC C\$840,000 in sales tax and to formalize the current ad-hoc arrangements regarding provincial health insurance, drivers licenses, English education rights, etc.

DOCUMENTS:

- a) Proposed Understanding between the Government of Québec and the CEC concerning immunities, tax privileges and courtesies (distributed 29-7-98)
- b) Council Resolution 95-04

Item 15 Other issues

The Alternate Representatives are expected to discuss a proposal from the Enforcement Working Group regarding the possibility of developing a common North American position on ISO 14,000.

DOCUMENTS:

- a) Information note: Evaluation of Environmental Management Systems Project (to be distributed)

Item 16 Scheduling of next sessions of Alternate Representatives

The Alternate Representatives are asked to adopt the calendar of sessions for 1999, taking into account the arrangements for the 1999 Regular Session of the Council. A proposal is to hold the next session on 8-9 April 1999 in Montreal.

DOCUMENTS:

- a) Proposed schedule of sessions for 1999 (distributed 11-2-99) C/C.01/98-08/PLAN/01/Rev.2

Item 17 Closure of the session

The Chairperson is expected to close the session.

DOCUMENTS: No document