

**SUMMARY RECORD**  
**SESSION 99-4 OF ALTERNATE REPRESENTATIVES**

Held on 28 May 1999  
Playa del Carmen, Mexico

The Council, represented by the Alternate Representatives, met on 28 May 1999. Ms. Norine Smith (Canada) chaired the meeting. Mr. José Luis Samaniego and Mr. William Nitze represented Mexico and the United States, respectively. Ms. Regina Barba, 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 (Annex A).

**Item 1 Adoption of the agenda**

The Council adopted the agenda for the session at the beginning of the session based on the provisional agenda (Annex B).

**Item 2 Report by the Interim Executive Director**

The Interim Executive Director reported on Secretariat activities and highlighted matters requesting the attention of the Council. Her notes are attached for reference as Annex C. In addition, a summary of the status of pending Article 14 submissions was presented.

Following the Interim Executive Director's report, the Alternate Representatives requested that the Secretariat provide an indication of how much money will be available for new initiatives in 2000, taking into account commitments already made in the 1999-2001 program plan as well as those proposed in this year's proposed Council resolutions.

**Item 3 Statement by the JPAC Representative**

The JPAC representative, Ms. Regina Barba, provided an update to the Alternate Representatives on JPAC's activities. She reported on JPAC's last meeting held in Anchorage, Alaska on 7 and 8 May 1999. The first day of that meeting consisted of a joint session with the Sound Management of Chemicals (SMOC) Working Group, which focused on contaminants and human health, with special attention to indigenous peoples. The second day was dedicated to a regular session of the JPAC which included a round table with the public.

Ms. Barba then introduced the latest advice to Council issued by JPAC: 99-03 - Follow-up to the Four-Year Review of the NAAEC: The Report of the Independent Review Committee; 99-04 - The Sound Management Chemicals Program of the CEC; 99-05 - Expanding the involvement of the North American public, including indigenous peoples in the work of the CEC; 99-06 - Draft Framework for Public Participation in the CEC Activities; 99-07 - The Negotiations towards a North American Agreement on TEIA; 99-08 - Process for cooperation between the Council of the CEC and the

NAFTA Free Trade Commission; 99-09 - Regional Solutions to Global Issues for the Next Millennium.

Finally, Ms. Barba stressed the concern expressed by JPAC members during their last session with respect to the Articles 14 and 15 Guidelines amendments under discussion by the Parties, despite JPAC's advice to the contrary. She also reiterated JPAC's view that the CEC's Executive Director ought to be appointed prior to the regular session of the Council and that JPAC membership be completed in time for that meeting as well. She concluded her report by outlining the fact that some JPAC members, along with Secretariat officials, had the opportunity to meet in Anchorage with Canadian and US representatives to the Arctic Council to discuss mutual concerns and share information.

#### **Item 4 Approval of summary records**

The Alternate Representatives postponed the discussion of this item to their next session.

#### **Item 5 1999 Regular Session of the Council**

##### **Item 5.1 Program**

The Alternate Representatives reviewed and finalized the provisional program for the session. Revision 8 of the program prepared by the Secretariat reflects the agreed upon program for the session.

##### **Item 5.2 Provisional agenda and supporting documentation**

The Alternate Representatives reviewed and finalized the provisional annotated agenda for the session.

The Alternate Representatives reviewed the draft Council communiqué prepared by the Secretariat. They agreed to further review the draft communiqué and provide comments to the Secretariat by 4 June. The Secretariat will then prepare a revised draft based on the Alternate Representatives discussion and written comments for review at their next session. With regard to the SMOC project, the Alternate Representatives agreed to first ask the SMOC Working Group to prepare a needs assessment for cooperation on monitoring. On the Environment and Trade Relationship, the Alternate Representatives agreed to present to the Council, at its regular session, a progress report on the Article 10(6) discussions. They also undertook to provide comments to the Secretariat on the draft Call for Papers circulated by the Secretariat and agreed that the NAFTA Environmental Effects Advisory Panel will select the abstracts, and that the peer reviewers will be asked to review the studies. It was mentioned by the Secretariat that the peer reviewers might need to be remunerated for their work.

The Alternate Representatives also reviewed the supporting documentation for the session.

##### **Item 5.3 Logistics**

Canada indicated that it will inform the Parties as to who is to be invited to attend the various events scheduled in the context of the regular session of the Council. Canada presented the results of its feasibility study regarding Internet broadcasting of parts of the Regular Session of the Council and explained that the costs associated with such an endeavor would represent about 12,000\$. Should funds be unavailable to cover such expenses, this option will not be retained.

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

The Alternate Representatives discussed the status of the negotiations of the TEIA Agreement in the context of their discussions under item 5.

**Item 7 Financial Matters****Item 7.1 Financial update by the Secretariat**

The Secretariat reported on the auditors report for financial year 1998 which recommends that the CEC plan for a reserve of 1,000,000\$C in year 2000 to account for the fact that the provincial sales tax reimbursement has become a doubtful account by accounting standards. With regard to the Parties' contributions, the Alternate Representatives discussed possible approaches to limit the impact of fluctuations in exchange rates on the budget of the CEC and agreed to further discuss this issue at their next session.

In the meantime, the Secretariat was asked to provide further advice on the feasibility of having the Parties contribute in different currencies so as to reflect the currencies used by the CEC in the payment of expenditures.

**Item 8 NAAEC Articles 14 and 15****Item 8.1 Letter from CEMDA relating to the Cozumel Factual Record**

The Alternate Representatives agreed to postpone this discussion to their next session.

**Item 8.2 Revision of Article 14 Guidelines and Process for developing Factual Records**

The Alternate Representatives discussed next steps with regard to the revision of the Articles 14 and 15 Guidelines taking into account JPAC Advice to Council 99-01 as well as comments received from the public. They also discussed next steps for addressing the issues relating to the development of factual records under Article 15 of NAAEC.

The Alternate Representatives agreed, in light of the additional experience, public comments and JPAC recommendation, that some of the changes originally contemplated in the Mérida text are no longer necessary and that, in large measure, JPAC's advice could be followed. They focussed their discussion on three points: i) the information provided to the Council by the Secretariat, so that the Council can make a decision regarding whether or not a factual record is warranted; ii) the issue of pursuing private remedies; and iii) the timing of the Secretariat's notification that a factual record is needed.

From a procedural point of view, it was agreed that the first step would be for the GSC to meet on 7 and 8 June in Washington to develop the language for the agreed upon revisions, for review by the Alternate Representatives at their next session. The Council would then discuss and adopt, as appropriate, the revision at its session in Banff.

The Alternate Representatives agreed that the process for the development of factual records should not be politicized, but that it is designed to identify the facts. It is therefore appropriate to elaborate a

procedure that would provide the best route to gather the facts. The Alternate Representatives reached agreement on the issue of effective enforcement. With regard to the two other issues (public hearings and consultation and disclosure of information used to prepare a factual record), it was agreed that further discussion need to take place. Nevertheless, an agreement was reached to the effect that working documents developed by the Secretariat, such as evolving drafts of the factual record, are confidential unless and until made public by the Council. Further discussion is needed regarding experts reports and documents received from submitters, the Parties and/or third parties.

**Item 9 NAAEC Articles 10(6): Petition of Alberta Wilderness Association et al.**

The Alternate Representatives agreed to discuss this matter at their next session.

**Item 10 Administrative Matters**

**Item 10.1 Spanish Version of CEC Rules**

The Alternate Representatives agreed to postpone the discussion of this item to their next session.

**Item 10.2 Understanding with the Province of Québec**

This item was discussed under item 7.

**Item 11 Other issues**

Concerning the letter from the Chair of JPAC to the Alternate Representative of the United States regarding visa issuance at the US embassy and consulate in Mexico, the US Alternate Representatives indicated that he would contact the environmental attaché at the embassy to inquire about ways in which restrictions, such as those encountered by certain participants at a recent CEC meeting, may be avoided in future.

**Item 12 Scheduling of next sessions of Alternate Representatives**

The Alternate Representatives agreed to meet next via conference call on 9 June 1999, from 11:00 AM to 2:00 PM (Eastern Daylight Saving Time) to finalize arrangements for the 1999 Regular Session of the Council.

**Item 13 Closure of the session**

The Chairperson closed the session.

SESSION 99-04 OF ALTERNATE REPRESENTATIVES

Playa del Carmen, Mexico, 28 May 1999

**Delegations List**

CANADA

**Alternate Representative** Norine Smith, Environment Canada  
Christine Guay, Environment Canada  
Jenna MacKay-Alie, Environment Canada  
Andy Bowcott, Environment Canada  
Rita Cerutti, Environment Canada  
Carol Smith Wright, DFAIT  
Denis Langlois, DFAIT

MEXICO

**Alternate Representative** José Luis Samaniego, SEMARNAP  
Véronique Déli, SEMARNAP

UNITED STATES

**Alternate Representative** William Nitze, EPA Office of International Activities  
Lorry Frigerio, EPA Office of International Environmental Policy  
Anne Rowley, International Environmental Law Office

JOINT PUBLIC ADVISORY COMMITTEE

Chair of JPAC Representative Regina Barba  
Manon, Pepin, JPAC Coordinator

SECRETARIAT

**Interim Executive Director** Janine Ferretti  
Greg Block  
Hernando Guerrero  
Marc Paquin  
Manon Pepin  
Carla Sbert  
Julie-Anne Bellefleur

**AGENDA**

**SESSION 99-04 OF ALTERNATE REPRESENTATIVES**

Thursday, 27 May 1999 from 8:30 PM to 10:30 PM

and Friday, 28 May 1999 from 8:30 AM to 7:30 PM

Playa del Carmen, Mexico

CHAIR: Canada

- Item 1 Adoption of the Agenda
- Item 2 Report by the Interim Executive Director
- Item 3 Statement by the JPAC Representative
- Item 4 Approval of summary records
- Item 5 1999 Regular Session of the Council
- Item 6 Negotiations of the North American Agreement on Transboundary Environmental Impact Assessment (TEIA)
- Item 7 Financial Matters
- Item 8 NAAEC Articles 14 and 15
- Item 9 NAAEC Article 10(6)
- Item 10 Administrative Matters
- Item 11 Other issues
- Item 12 Scheduling of next sessions of Alternate Representatives
- Item 13 Closure of the session

**SESSION 99-04 OF ALTERNATE REPRESENTATIVES**  
**ANNOTATIONS TO THE AGENDA**

**Item 1 Adoption of the agenda**

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

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

**DOCUMENTS:**

- a) Provisional annotated agenda (distributed 20-05-99) C/C.01/99-04/AGEN/01/Rev.2

**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 and highlight matters requesting the attention of the Council.

**DOCUMENTS:**

- a) Secretariat Report on the implementation of the recommendations of Deloitte and Touche in response to the efficiency review (to be distributed)

**Item 3 Statement by the JPAC Representative**

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

**DOCUMENTS:** (distributed 19-05-99)

- a) JPAC Advice 99-03: Follow-up to the Four-Year Review of the NAAEC: The Report of the Independent Review Committee J/99-03/ADV  
b) JPAC Advice 99-04: The Sound Management Chemicals Program of the CEC J/99-04/ADV  
c) JPAC Advice 99-05: Increasing the involvement of the North American public, including indigenous peoples in the work of the CEC J/99-05/ADV  
d) JPAC Advice 99-06: Draft Framework for Public Participation in the CEC Activities J/99-06/ADV  
e) JPAC Advice 99-07: The Negotiations of the North American Agreement on TEIA J/99-07/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  
g) JPAC Advice 99-09: Regional Solutions to Global Issues for the Next Millennium J/99-09/ADV

**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 summary records of sessions 98-09, 99-01 99-02 and 99-03.

**DOCUMENTS:**

- a) Session 98-09 Summary Record (distributed 20-05-99) C/C.01/98-09/SR/01/Rev.4  
b) Session 99-01 Summary Record (distributed 20-05-99) C/C.01/99-01/SR/01/Rev.5  
c) Session 99-02 Summary Record (distributed 1-04-99) C/C.01/99-02/SR/01/Rev.3  
d) Session 99-03 Summary Record (to be distributed) C/C.01/99-03/SR/01/Rev.1

**Item 5 1999 Regular Session of the Council**

The Parties are expected to finalize the provisional program and agenda for the Regular Session of the Council to be held on 27-28-29 June 1999 in Banff, Canada. They are also expected to review the supporting documentation. The host country (Canada) and the Secretariat will update the Parties on logistical preparations, as necessary.

### **Item 5.1 Program**

The Alternate Representatives are expected to review and finalize the provisional program for the session.

#### **DOCUMENTS:**

- a) Provisional program (distributed 17-05-99) C/99-00/PROG/01/Rev.6

### **Item 5.2 Provisional Agenda and supporting documentation**

In order to ensure the timely preparation of final Council session documents by the Secretariat, the Alternate Representatives are expected to review and finalize the provisional annotated agenda and the supporting documentation for the session.

#### **DOCUMENTS:**

- a) Draft provisional agenda (distributed 17-05-99) C/99-00/AGEN/01/Rev.6
- b) Brief on North American Priorities (to be distributed)
- c) Refer to Documents Status Report as of 20 May 1999 for complete list of supporting documents (distr. 20-05-99)

### **Item 5.3 Logistics**

Under this item, the host country and the Secretariat will provide logistical information as required.

### **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.

#### **DOCUMENTS:**

- a) JPAC 99-07: The Negotiations of the North American Agreement on TEIA  
(to be distributed 24-05-99) J/99-07/ADV

### **Item 7 Financial Matters**

#### **Item 7.1 Financial update by the Secretariat**

The Secretariat will update the Alternate Representatives with respect to CEC finances. The Alternate Representatives may also discuss possible approaches to limit the impact of fluctuations in exchange rates on the budget of the CEC.

#### **DOCUMENTS:**

- a) 1999 Contribution agreement between Canada and the CEC
- b) 1999 Contribution schedule of Mexico
- c) Memorandum from Jack Person to Janine Ferretti, dated 17 May 1999 (distributed 17-05-99)

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

#### **Item 8.1 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 25-11-98)
- b) Draft response

#### **Item 8.2 Revision of Article 14 Guidelines and Process for developing Factual Records**

In preparation for the 1999 Regular Session of the Council, the Alternate Representatives are expected to discuss next steps with regard to the revision of the Article 14 Guidelines in light of JPAC Advice 99-01 and comments received from



the public. They are also expected to discuss next steps for addressing the issues relating to the development of factual records under Article 15 of NAAEC, for the Council's discussion in June.

**DOCUMENTS:**

- a) Draft discussion paper prepared by the US on issues associated with the process of preparing factual records (distributed on 19-03-99)
- b) Canadian discussion paper on issues related with the process in the preparation of a factual record under the NAAEC (distributed 12 May 1999)
- c) 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)
- d) JPAC Advice 99-01: Revised Guidelines for Submissions on Enforcement Matters under Articles 14 and 15 (distributed 30-03-99)

**Item 9 NAAEC Articles 10(6): Petition of Alberta Wilderness Association et al.**

The Alternate Representatives are expected to exchange views on how to address the petition to Council received from Alberta Wilderness Association et al. on 8 March 1999 regarding Articles 10(6)(a), 20(3) and 21(1)(2) of the NAAEC.

**DOCUMENTS:**

- a) Petition filed on 8 March 1999 by Alberta Wilderness Association et al. (distributed 10-3-99)
- b) Canadian Discussion Paper and Draft Response (distributed 13 May 1999)

**Item 10 Administrative Matters**

**Item 10.1 Spanish Version of CEC Rules**

During their Session 99-01 held in January, the Alternate Representatives instructed their legal officials to meet and finalize the Spanish version of the rules for adoption at their next session. Accordingly, the Alternate Representatives are expected to review and adopt the final Spanish version of the CEC rules.

**DOCUMENTS:**

- a) Reglamento del Consejo (distributed 7-05-99) C/C.01/96-06/DISC/01/Rev.2
- b) Reglamento del CCPC (distributed 7-05-99) C/C.01/96-06/DISC/02/Rev.1
- c) Reglamento financiero (distributed 7-05-99) C/C.01/96-06/DISC/03/Rev.1
- d) Reglamento laboral (distributed 7-05-99) C/C.01/96-06/DISC/04/Rev.1

**Item 10.2 Understanding with the Province of Québec**

Pursuant to Council Resolution 95-04, on 29 July 1998 the Secretariat forwarded to the Parties, for their review and approval, copy of a proposed Understanding between the CEC and the Government of Québec. An annotated version of the draft Agreement, addressing many of the comments submitted by the United States in a memorandum dated 13 April 1999, was subsequently distributed to the Parties on 28 April 1999. The Parties are expected to confirm whether the draft Understanding, as annotated, is acceptable to them before the Secretariat proceeds with the signature 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 Understanding in order to formalize the current ad-hoc arrangements regarding provincial health insurance, drivers licenses, English education rights, etc. It is also awaiting such signature to proceed with the reimbursement of sales tax paid by the CEC as well as registration of the CEC with the CSST (Occupational Health and Safety Commission).

**DOCUMENTS:**

- a) Draft Understanding between the Government of Québec and the CEC (distributed 28-04-99)

**Item 11 Other issues**

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

**DOCUMENTS:** No document

**Item 12      Scheduling of next sessions of Alternate Representatives**

The Alternate Representatives are expected to schedule their next session aimed at finalizing arrangements for the 1999 Regular Session of the Council.

DOCUMENTS:

- a) Proposed schedule of sessions for 1999 (to be distributed)

C/C.01/98-08/PLAN/01/Rev.4

**Item 13      Closure of the session**

The Chairperson is expected to close the session.

DOCUMENTS:      No document

**Notes for Report from Interim Executive Director**  
**Council Session 99-04**

1. Council Meeting

Good progress is being made in establishing decisions and announcements for Council at its annual meeting. A draft communiqué was prepared which lays out some of the key announcements, which have been identified. There remain some outstanding confirmations, which need to be addressed in particular related to TEIA and model rules.

The Parties are asked to designate a communications specialist to represent them in to work with the CEC communications coordinator for the Council Session in finalizing the communiqué and arranging the press conference.

I will be preparing a written report to Council in advance of the Council meeting outlining some of the major developments within the CEC since the last session.

A briefing note describing the general priorities shared by the three countries and the related CEC initiatives has been prepared for your review and amendments. It took into account the priorities articulated in Council's vision statement. This briefing note is aimed at helping Council discuss in general terms North American priorities, progress made by the CEC in addressing them, and possible areas for shifts in emphasis or focus.

2. Implementation of the Recommendations proposed by Deloitte and Touche

The Secretariat is submitting to you a report explaining the progress made in implementing the recommendations. Attached is an advance copy of the report in its original language. Further work is continuing in developing a program evaluation process and an improved project management and tracking system.

3. Public Participation Framework

Thanks to the valuable efforts of JPAC in helping to draft the framework and facilitating public input, the Secretariat submitted to Council a final draft of the public participation framework. Council is asked to review and approve it. Once approved it will help guide the CEC in ensuring there is adequate and consistent opportunity for public participation.

4. Cooperation and Emergency Management in the NAFTA Region

Pursuant to the North American Agreement on Environmental Cooperation (NAAEC) which states in article 2.1(b), that "each Party shall, with respect to its territory, develop and review environmental emergency preparedness measures", the CEC was directed by Council to investigate cooperation on environmental emergency management in the NAFTA region. A survey of initiatives and options was completed last month. The report concluded that the NAFTA parties would benefit from: 1) developing implementation-level plans for the several broad framework agreements already in place coupled with accelerated standardization and harmonization of emergency operation procedures

throughout the NAFTA region; 2) ensuring the provision of material and financial resources so responders are properly equipped for emergencies and planners may adequately determine and apply preventative and mitigating measures; and 3) providing greater transparency and stakeholder participation in all phases of emergency management. Such transparency is also needed to enhance cooperation between the public and authorities during emergency operations.

#### 5. Cooperation with North American Centres of Excellence

Pursuant to Council Resolution 98-08, the Secretariat was instructed to prepare a report on the opportunities to increase cooperation with North American centers of excellence through their direct participation in specific areas of the work program of the collaborative partnerships with the CEC.

The report addresses ways in which the CEC can better work with centers of excellence. The CEC has begun to seek out collaboration with centers of excellence in a number of projects.

#### 6. GEF Proposal for DDT NARAP Implementation

The final draft proposal to GEF is being sent to the GEF focal points in each participating country for final review. The CEC is a partner to PAHO in this Block B project. The CEC is contributing 100,000 dollars US to this initiative. GEF is contributing \$350,000, PAHO \$100,000, and the governments of Mexico and Central American governments are contributing \$150,000. This represents a leveraging at this stage of the project of \$500,000 to the CEC's \$100,000. The amount contributed by the CEC will be managed by the CEC and dedicated exclusively to those actions within the project taking place in Mexico

#### 7. Progress Report on 1999 Program

The Secretariat is providing Council with a mid-year update on the CEC's 1999 program. We look forward to receiving your comments on this report on how it can better meet your information needs on current program initiatives.

#### 8. Annual Report

The Secretariat will be submitting for Council's review the draft annual report early during the month of June. It is expected that this report be printed during the 3<sup>rd</sup> quarter of 1999, provided that the Parties respective country reports are ready by the end of June.

#### 9. 1998 Program Accomplishments

As well, you will be receiving a report on 1998 program achievements which lays out what each project has accomplished, list of project partners and participants, as well as relevant financial information for each project. An advanced English copy will be sent to the Parties by June 5<sup>th</sup>.