



**Public Workshop on Chapter 11 of the North American Free Trade Agreement (NAFTA)
organized by the Joint Public Advisory Committee (JPAC)
of the Commission for Environmental Cooperation (CEC) of North America**

Monday, 24 March 2003

**Marquis Reforma Hotel
Paseo de la Reforma 465, Col. Cuauhtemoc
Mexico City, DF, Mexico
Phone: (52 55) 5229-12-00 • Fax: (52 55) 5229-12-12**

PROVISIONAL AGENDA

- 8:00 *Accreditation of participants*
- 9:00 – 9:15 Welcoming remarks and report on JPAC activities, by Gustavo Alanís-Ortega, JPAC Chair for 2003
- 9:15 – 9:45 Presentation by government representatives from the three countries (names to be confirmed)
- Questions and open discussion
- 9:45 – 10:15 Update—Discussion paper on the interpretation of NAFTA Chapter 11, by Aaron Cosby, Senior Advisor, International Institute for Sustainable Development
- 10:15 – 11:00 Discussion on the update paper on the interpretation of NAFTA Chapter 11
- 11:00 – 11:30 *Coffee Break*
- 11:30 – 13:30 Session One: Issues related to expropriation, non-discrimination, performance requirements, and minimum international standards of treatment
- When should bona fide regulations constitute expropriation? Are there problems with appropriating the non-discrimination principle from the trade context? Under what circumstances should import bans be considered performance requirements? How broadly should we define minimum international standards of treatment?*
- Questions and open discussion

- 13:30 – 14:30 Session Two: Potential parameters of the environmental, health and safety exception for stewardship by the Parties
 What are the pros and cons of seeking a GATT Article XX-like exception clause in Chapter 11? Are there relevant lessons from the WTO experience? Does the concept of exceptions reduce sovereign rights that already exist (i.e., rights to regulate in the public interest)?
- Questions and open discussion
- 14:30 – 15:30 *Lunch – Free time*
- 15:30 – 16:25 Session Three: Issues related to transparency, legitimacy, and accountability
 Is there a need for a more open process of arbitration? If so, what should it look like? Is there a need for a standing roster of Chapter 11 panelists? Is there a need for an appeals mechanism?
- Questions and open discussion
- 16:25 – 17:25 Session Four: Issues of effectiveness/feasibility of amendments to the NAFTA vs. interpretive statements
 What are the arguments for and against amending the NAFTA vs. interpretive statements? Do the answers differ for process issues vs. substantive issues? How well has the June 2001 interpretive statement worked to date, and what lessons are there for similar future statements?
- Questions and open discussion
- 17:25 – 17:30 Conclusion—Remarks by Gustavo Alanís-Ortega, JPAC Chair for 2003
- 17:30 End of the public workshop

Note: The JPAC Chair will make a report on the results of this public workshop at the Second North American Symposium on Assessing the Environmental Effects of Trade to be held at the same location on 25–26 March 2003.