



Environnement Canada

Ottawa ON K 1 A OH3

Ms. Donna Tingley  
JPAC Chair for 2004  
c/o Secretariat of the Commission  
for Environmental Cooperation  
393 St. Jacques Street West, Suite 200 Montreal ac H2Y 1 N9

**Dear Ms. Tingley:**

On behalf of the Council, the Alternate Representatives thank the Joint Public Advisory Committee (JPAC) of the Commission for Environmental Cooperation (CEC) for its recent Advice to Council 04-02 on future directions for the North American Agreement on Environmental Cooperation (NAAEC).

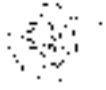
JPAC's comments are valuable to Council in the context of the discussions currently taking place to set new directions for the CEC. We agree that the report of the Ten Year Review and Assessment Committee (TRAC) is very useful, and that their recommendations are consistent with several of the outcomes of the CEC Council Session held in June 2004. We note that your advice reiterates and reflects many of the recommendations that we addressed at the June Council session.

As you know, the Puebla Declaration emphasized the need to set directions for the future. The Council - through regular Alternate Representatives meetings in which the JPAC chair participates - is now actively engaged in the definition of results-oriented strategic plans for three overarching priorities: information for decision-making; capacity building; and trade and environment integration. During this period, the CEC Council members, and their Alternate Representatives, will address many of the issues that are raised in the Ten Year Review report - and in your advice - including advancing our knowledge of trade and environment linkages; building capacity for stronger environmental partnerships; and building the CEC constituencies engaged in the work of the organization.

./2

•  
I  
j  
\  
/

Canada



www.ec.gc.ca

-2-

We would like to take this opportunity to address some specific comments contained in your Advice 04-02, regarding the following TRAC recommendations:

*Recommendation 1: A Renewed Commitment to the CEC as an Innovative Institution:* As you note, the Council has already addressed this issue in the Puebla Declaration.

*Recommendation 3: Advancing our Knowledge of Trade and Environment Linkages:* The Council views the development of the strategic plan for trade and environment as critical to directing and focusing the CEC's work in this area. We thank the JPAC for its offer of full co-operation in the development of this strategic plan, and will ensure that JPAC's advice on this plan is sought.

*Recommendation 4: Building Capacity for Stronger Environmental Partnerships:* Again, we note JPAC's concurrence with the Council's decision to focus on institutional capacity building. Regarding the NAFEC, we also agree that it played a useful role in local-level capacity building and broadening the CEC's constituency base. The CEC has never had an overarching strategic plan guiding capacity building efforts and the current work of Alternate Representatives is focused on how to achieve the greatest leverage and lasting results from CEC capacity building investments.

*Recommendation 5: Getting the Relationships Right - Effective Governance in the CEC:* The importance of constructive and productive relationships cannot be understated, and we look forward to making progress on this issue as we continue our day-to-day work. We look forward to considering advice from the JPAC, as well as suggestions from the Secretariat, in this regard.

*Recommendation 9: Ensuring and Leveraging Sustainable Funding for the CEC:* Council has been clear on this issue. We are not in a position to increase the budget of the CEC. However, we do feel it is important to look into options to decrease the volatility of the CEC budget arising from currency fluctuations. It is our intention to ask the Secretariat to propose some suggestions for how this could be done. The JPAC's advice on options to decrease the volatility of the CEC budget would be welcome.

*Recommendation 13: Building the CEC Constituency:* As you know, this is a recommendation that we agree with, and an idea that we have consistently raised with the Secretariat. There is a role for the Secretariat, Council, and the JPAC to each play in ensuring that we engage all groups equally. We ask the JPAC, in providing future advice and in organizing your public meetings, to reflect the spirit of this recommendation.

./3

-3-

*Recommendation 14: Implementing the Recommendations of this Report* As you know, in response to the TRAC Report, Council issued the Puebla Declaration at their 11th session in Puebla, Mexico. We do not envision a formal reporting mechanism on the implementation of TRAC recommendations at the 2006 Council session. However, we anticipate that those recommendations will inform our decisions as we move to strengthen all aspects of the organization.

In your Advice 04-02, you indicate that you have some reservations about two recommendations:

*Recommendation 10: Ensuring Effective Implementation of the Citizen Submission Process (Article 14 and 15):* We agree that we need to ensure effective implementation of the citizen submissions process. Regarding the TRAC's suggestion of developing a mediation step to facilitate resolution of enforcement matters, we would emphasize that such a mechanism is not provided for in the NAAEC. We would also note that the citizen submissions process under Articles 14 and 15 is a transparent one, designed to facilitate public awareness and scrutiny as to whether a Party is failing to effectively enforce its environmental laws. We are not convinced that a mediation step - which, as you note, tends to be a "closed door process" - would further this goal

*Recommendation 11: Reaching Agreement on Dispute Resolution under Part V:* We do not agree with the rationale behind the TRAC's recommendation that the Parties publicly commit to refrain from invoking Part V for a period of 10 years. The Part V provisions are an integral part of the NAAEC, and provide a framework to conduct consultations and resolve disputes regarding whether there has been a persistent pattern of failure by a Party to effectively enforce its environmental law. We see no evidence that Part V has had a negative effect on the operation of Articles 14 and 15.

As we assess the work of the CEC, we will continue to carefully consider your recommendations, and look forward to continued solid and constructive advice from the JPAC as we chart a future course for the CEC.

c.c

Yours sincerely,

~(\'

\~

~M'k

Norine Smith  
Alternate Representative for Canada

Mr. Jose Manuel Bulas, Alternate Representative for Mexico Ms. Judith Ayres, Alternate Representative for the U.S.A  
Mr. William Kennedy, Executive Director, CEC Secretariat