



## COMMISSION FOR ENVIRONMENTAL COOPERATION OF NORTH AMERICA

### Joint Public Advisory Committee Session No. 03-04

**4 December 2003  
Miami, Florida**

### Summary Record<sup>1</sup>

The Joint Public Advisory Committee (JPAC) of the Commission for Environmental Cooperation (CEC) of North America held a regular session on 4 December 2003 following a CEC round table on invasive species: “An unwelcome dimension of trade: the impact of invasive species in North America.”

This Summary Record reports on each agenda item, records all decisions made by the Committee and identifies action items and responsibilities. (See Annex A for the agenda, and Annex B for the list of participants.) Please note that the record of the round table on invasive species will be available separately on the CEC web site.

Previous summary records, advice from JPAC to Council and other JPAC-related documents may be obtained from the JPAC Liaison Officer's office or through CEC's web site at <<http://www.cec.org>>.

### Welcome and overview by the JPAC chair

The JPAC chair welcomed everyone to Miami and explained that several members of JPAC were unable to attend this session, namely, Dan Christmas, Jane Gardner, Arturo Duran and Patricia Clarey. He explained that, unusually, JPAC was holding an evening meeting because the committee was scheduled to meet with the NAAEC Ten-year Review and Assessment Committee (TRAC) the next morning.

He went on to present an overview of JPAC's activities since the last meeting. These included:

- Arturo Duran attended a meeting on tracking of hazardous wastes in Montreal. Advice to Council 03-04: “A North American Approach to the Environmentally Sound Management and Tracking of Hazardous Waste and Recyclables” was subsequently prepared and approved by JPAC.
- Dinker Desai represented JPAC at the US NAC meeting in October in Washington, DC.
- Following the close of the public comment period, a draft Advice to Council on Articles 14 and 15 was prepared by the JPAC working group for consideration by the JPAC at this meeting.
- The chair participated in a meeting of the Alternate Representatives on 20–21 November to review the CEC Operational Plan and Budget.

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<sup>1</sup> DISCLAIMER: Although this summary was prepared with care, readers should be advised that while JPAC members have approved it, it has not been reviewed nor approved by the intervenors and therefore may not accurately reflect their statements.

Highlighted points of this review meeting include:

- The entire Environment, Economy and Trade area needs to be rethought. A proposal to develop an “overall strategy” (similar to what was done for biodiversity) is being considered to guide the work in this area. Several projects might be reduced, such as postponing the next Symposium on Trade and Environment in 2006.
- It was suggested that the Article 10(6) officials be engaged in the development of this strategy as a way of trying to solve the impasse over the 10(6) obligation of the NAAEC; for example, by integrating this issue within the Environment, Economy and Trade program.
- No budget was allotted for work on transboundary environmental impact assessment (TEIA). It was argued that the CEC would only have a role in implementation once the governments had agreed on a way forward.
- The Secretariat was asked to find ways of staffing the program manager position for children’s health as a first priority and second, the program manager position for SMOC.
- Further cuts to JPAC’s budget were suggested. Canada said that there are “no sacred cows” in the budget and that an additional C\$40,000 reduction to JPAC’s budget might be made.
- In order to be viable and credible, NAFEC requires a minimum allotment of C\$500,000.
- It was decided that the CEC will no longer cover the travel expenses for Canadian and US officials, resulting in an approximate savings of C\$200,000 and that whenever possible, CEC meetings should be held in Montreal.
- Council sessions could be held every 18 months. It was also suggested that, in order to better prepare Council to respond to the ten-year review, the 2004 session might take place in the fall rather than in June. It was also noted that there is a need to find more time and more productive ways for the public to exchange with JPAC and the ministers during the Council sessions.
- In response to questions from the Alternate Representatives, the Secretariat reported that significant progress had been made in involving indigenous peoples in the program. Specifically, the Biodiversity program has set out a work plan featuring such involvement. It was not possible for the chair to comment directly on this, as JPAC had not yet been provided details. But given JPAC’s great interest in this issue, the Committee might want to consider requesting more details from the program head on what exactly is planned.
- The Alternate Representatives indicated that the review of Council Resolution 00-09 would take place after receiving the JPAC advice on this issue and that they wanted to work with JPAC. This will be discussed at the March 2004 joint meeting between JPAC and the Alternate Representatives in Oaxaca.
- The Secretariat will prepare a revised budget based on the instructions from the Parties.
- Final decisions on the Operational Plan will be taken during the conference call of the Alternate Representatives scheduled for later in December 2003.
- The possibility of a retreat involving the Alternate Representatives, the Secretariat and JPAC was discussed, that would allow strategic planning in the context of results from the ten-year review.

Finally, the chair announced that Donna Tingley had been elected as JPAC chair for 2004. He assured her of his full cooperation during the transition.

The agenda was approved as prepared.

**Report for the CEC Secretariat and question period**

The chair asked the Director of the Submissions and Enforcement Unit, Mr. Geoffrey Garver, to make a presentation. Mr. Garver began by expressing the regrets of the CEC executive director, who was required to stay in Montreal to oversee the revision of the Operational Plan and Budget. The chair and other JPAC members asked that their disappointment be conveyed to him. A written report was included in JPAC's briefing books. The following highlight were relayed:

- The Alternate Representatives, at their meeting of 20–21 November, made further reductions to the CEC budget.
- The C\$500,000 threshold that the Parties indicated was necessary for NAFEC, was not met. He explained that the Secretariat will be proposing additional capacity building initiatives aimed at local communities, indigenous peoples and governments.
- Regarding the Pollutants and Health program area, a major study was recently released on air quality in the Ciudad Juárez area, and an important meeting regarding lindane is being planned for February 2004 in Anchorage, Alaska.
- The Article 13 report on maize is on track for presentation to Council in June 2004.
- Decisions on Article 14 and 15 submissions (Rio Magdalena and Ontario Logging) were postponed.
- No budget is being provided for NAAEC Article 10(7) work—transboundary environmental impact assessment.

He then brought a message from the executive director, who encouraged JPAC to consider the opportunities provided by NAAEC Article 16(5), which states: “The Joint Public Advisory Committee may provide relevant technical, scientific or other information to the Secretariat, including for purposes of developing a factual record under Article 15. The Secretariat shall forward to the Council copies of any such information.”

On behalf of the Secretariat, he concluded by thanking Gustavo Alanis Ortega for his efforts as JPAC chair in 2003 and welcomed Donna Tingley as chair for 2004.

Comments and questions included:

- In the new capacity building initiative, why would governments be considered eligible—that was never the original intention of the NAFEC?
- How are indigenous communities being involved in the lindane work? It is important to keep in mind that there is a difference between involving indigenous ‘leaders’ and affected communities.
- I don't see any evidence of JPAC Advice to Council 03-03 on the Operational Plan being taken into account—is JPAC wasting its time? We made specific recommendations about thresholds for projects.
- Again we are faced with receiving information too late to do anything with it. You tell us that the revised Operational Plan will be delivered tomorrow (5 December). I would like you to tell the executive director that this is no way to work with us.
- If JPAC does not receive information on a timely basis, then its ability to act as an agent for the public is being obstructed.

- It is unacceptable to assume that the CEC should continue to support travel, etc., for Mexican government officials. Mexico is a sovereign state that signed a trilateral trade agreement—now they are taking money away from local groups.
- The comment that there are no “sacred cows” is also totally unacceptable in the context of JPAC. There is indeed a sacred cow in the CEC, and that is public participation. That is what the NAAEC holds sacred and JPAC is one of the important vehicles for ensuring public participation. The Alternate Representatives are exercising too much authority, as opposed to ministers. We have an agreement with the people of North America; it is absolutely inappropriate for government officials to attempt to cut back public participation.
- JPAC members are volunteers. Reductions in public participation are simply not acceptable. JPAC does not “profit” from the budgets—the public does. If there are questions about the effective use of the budget, that is one thing—it is not a matter of reducing, rather making best use of the allocations.
- There is no point taking out time as volunteers, attending meetings and preparing advice if it is not being taken seriously.
- We are developing a sense that the new executive director may not see the value of JPAC.
- JPAC and NAFEC together are key elements of public participation in the NAAEC—this is what makes the NAAEC unique—as governments are so quick to point out when advertising its benefits. Is there a trend to close ranks so it is a government/Secretariat-only process? I am very worried about this.
- Even though it is too late, I would very much like to know if there was a framework developed for the budget reductions and if so, what it was and why JPAC was not involved in such an important exercise. It appears to me that all the mechanisms to connect to the public are being targeted for budget reduction. I am also concerned that the primary element of the NAAEC—the link between environment and trade—is being lost.
- Budget cuts are not the answer—not even in the short term. The allocations have not changed for 10 years. The capacity of the CEC to function is being seriously diminished.
- Obligations under NAAEC are not “optional.” Governments cannot simply choose not to work on Article 10(7)—transboundary environmental impact assessment. We never even received a translation of the Mexican proposal—minimally this could be budgeted so we could continue to work on it.

The Director of the Submissions and Enforcement Unit indicated he would do his best to convey JPAC’s comments to the executive director in the manner in which they were made. He noted, however, that many of the comments should be directed to the governments (who did not appear to be at the session). It is not the Secretariat’s role to convey these messages to the Parties. He concluded by noting that this is a transitional year. The four strategic goals of the Operational Plan are intended to tie the work of the CEC to the objectives of the NAAEC, and those goals will be tested and adjusted as necessary.

JPAC instructed the chair to write a letter to Council expressing these concerns.

**Action: JPAC Chair**

### **Reports from the National and Governmental Advisory Committee representatives**

The JPAC chair invited the chairman of the Canadian NAC to make a presentation. He gave an overview of the issues discussed at the 16–17 October annual meeting of the Canadian NAC in

Montreal that focused on the Operational Plan and Budget. A report on that meeting will be available shortly.

The Canadian NAC generally supports the new planning approach and understands the need for budget reductions. However, he noted that the committee had been “shocked” to see the reductions in public participation. Why are political decisions being made before the ten-year review is completed? He encouraged JPAC not just to write letters, but to make official representation to the ministers.

He also noted that the Canadian NAC is on the “same wave length” as JPAC concerning the Operational Plan—that it should focus on public participation, accountability, outreach and the link between trade and environment. He also worried about the emerging instructions to fund raise for projects to make up for reduced budgets. First, public participation budgets are slashed and then the CEC will begin to compete with these same groups for the attention of funding agencies—that is really the “cherry on the cake”! The only reasonable solution is for governments to increase funding to the CEC.

A representative from the US GAC, a resident of Miami, welcomed everyone to south Florida. He noted the need for improved communications. For example, he was not aware of the JPAC meeting and the meeting on invasive species—had he been there would have been a larger turnout from the public.

### **JPAC discussion on a potential Advice to Council on the impact of invasive species in North America**

The chair reported that the meeting was very stimulating. The JPAC working group on invasive species had met and a draft Advice to Council will circulate shortly among the members.

**Action: JPAC Working Group, JPAC**

### **JPAC discussion on a potential Advice to Council on limiting the scope of factual records and review of the operation of CEC Council Resolution 00-09 related to Articles 14 and 15**

A member of the JPAC working group provided background. Several modifications and an addition concerning the possibility of the Council being in conflict of interest were agreed to. A revised draft will be circulated shortly after the session for approval.

**Action: JPAC**

### **JPAC follow-up**

#### **a) Review Council’s response: Joint meeting of trade and environment ministers**

A response was received on 3 December to JPAC’s letter of 5 August 2003, and indicated no progress on this issue. It was agreed it would not be productive to engage in further correspondence at this time.

**JPAC administrative matters**

Before beginning this portion of the meeting, the chair presented Cam Avery, a departing Canadian member with a plaque and expressed his sincere appreciation for Mr. Avery's expertise and leadership during the past three years.

Mr. Avery thanked his fellow members. He spoke eloquently of the importance for JPAC to continue promoting public participation in the face of what appears to be diminishing interest by the other partners in the CEC.

**a) JPAC working groups: member appointments and rotations**

Merrell-Ann Phare will replace Donna Tingley on the Transboundary Environmental Impact Assessment Working Group

Ann Bourget and Nelly Correa will join the JPAC Article 13: Maize Working Group.

**b) Tulane University's offer to assist JPAC in a self-evaluation**

The JPAC Liaison Officer explained that Tulane University has offered to facilitate a JPAC self-evaluation in the context of the Ten-year Review, providing an opportunity for more information to be communicated to the TRAC.

It was agreed to postpone any decision until meeting with the TRAC on 5 December.

**c) Next JPAC meetings**

Due to budget reductions, there will be three meetings in 2004.

Session 04-01: 11–13 March 2004, in Oaxaca to attend the CEC symposium on maize and biodiversity; a field trip; and the JPAC regular session.

Session 04-02: Mexico, in conjunction with the Regular Session of Council—location and time to be determined by Council. There is a possibility that the meeting may take place in the fall. It was also suggested that a public session on the Ten-year Review and Assessment of the NAAEC be held in cooperation with the TRAC.

Session 04-03 Canada, date and location to be confirmed.

Donna Tingley, the incoming chair for 2004 thanked the JPAC members and noted that this would be a challenging year, given the budget issues and the new members on Council. She thanked Cam Avery for his friendship and dedication, and Gustavo Alanis Ortega for his enlightened leadership.

**Observers' comments**

A representative of Environment Canada identified herself at this point and indicated she would report JPAC's comments. Her suggestions:

- One could say that the “Titanic is sinking.” It’s time to remove programs and focus on core issues.

- Keep the invasive species advice simple and go back to basics—public participation.

The JPAC chair thanked all the participants, members, staff and the interpreters, bid farewell as chairman and adjourned the session.

Prepared by Lorraine Brooke  
22 December 2003





**Commission for Environmental Cooperation of North America**

**Joint Public Advisory Committee Regular Session 03-04**

**4 December 2003**

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**Provisional Agenda**

*Mediterranean Center and West Rooms*

- 18:30–18:35 Welcome and overview by the JPAC Chair, Gustavo Alanís-Ortega\*  
a) Presentation of the JPAC Chair for 2004  
b) Approval of the provisional agenda
- 18:35–19:00 Report from the CEC Secretariat by the Executive Director, William Kennedy, and question period
- 19:00–19:15 Report from the National and Governmental Advisory Committee representatives\*
- 19:15–20:00 JPAC discussion on a potential Advice to Council on the impact of invasive species in North America\*
- 20:00–20:45 JPAC discussion on a potential Advice to Council on limiting the scope of factual records and review of the operation of CEC Council Resolution 00-09 related to Articles 14 and 15\*
- 20:45–21:00 JPAC follow-up\*  
a) Review Council's responses: Joint meeting of trade and environment ministers
- 21:00–21:15 JPAC administrative matters\*  
a) JPAC working group: member appointments and rotation  
b) Next JPAC meetings
- 21:15–21:30 Observers' comments
- 21:30 End of the session

**Note:** *The Joint Public Advisory Committee and the Ten-year Review and Assessment Committee will hold a meeting on 5 December from 8:30 to 11:30. This meeting will be followed from 12:00 to 18:00 by an Everglades tour. This visit is related to the North America Invasive Species Meeting held on 4 December.*

\* Session open to the public as observers.



**Round Table: "An unwelcomed dimension of trade:  
The impact of alien invasive species in North America"  
and  
Regular Session of the Joint Public Advisory Committee 03-04**

**Mesa redonda: un factor inoportuno del comercio:  
efecto de las especies invasoras en América del Norte  
y  
Sesión ordinaria del Comité Consultivo Público Conjunto 03-04**

**Table ronde intitulée "Une dimension importune du commerce : Les incidences des espèces exotiques  
envahissantes en Amérique du Nord"**

**et  
Session ordinaire 03-04 du Comité consultatif public mixte**

**4 December 2003/ 4 de diciembre de 2003/ 4 décembre 2003**

**Miami, Florida**

**participants list / lista de participantes / liste de participants**

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