

## **SESSION 02-06 OF ALTERNATE REPRESENTATIVES**

### **SUMMARY RECORD**

The Commission for Environmental Cooperation (CEC) Council, represented by its Alternate Representatives, met via conference call on 11 December 2002. Ms. Judith Ayres (United States) chaired the meeting. Ms. Norine Smith and Mr. Israel Núñez represented Canada and Mexico, respectively. Mr. Jonathan Plaut represented the Joint Public Advisory Committee (JPAC) and Mr. Vic Shantora, CEC Acting Executive Director, represented the Secretariat. Ms. Julie-Anne Bellefleur, Council Secretary, acted as secretary for the session. Other officials of the Parties and the Secretariat were also in attendance.

#### **Item 1 Adoption of the agenda**

The Alternate Representatives adopted the agenda based on the provisional agenda (Annex A), with the addition of a new item, an update by the United States on the recruitment of the Executive Director.

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

Noting that this was Jon Plaut's last participation as JPAC Chair and JPAC member, the Acting Executive Director highlighted Mr. Plaut's long and fruitful association with the CEC and extended his best wishes.

In his report to the Alternate Representatives, the Acting Executive Director highlighted some the CEC's most recent activities, such as the first meeting of Advisory Group on the Article 13 Report on Genetic Diversity of Maize in Mexico, held in Montreal recently. He indicated that an outline of the work to be undertaken under this initiative would be forwarded to the Parties in December. A copy of the Fall 2002 Report of the Acting Executive Director can be found in Annex B.

The Acting Executive Director also reported on the CEC's recent meeting with the International Joint Commission (IJC) and the International Boundary Water Commission (IBWC) where the three commissions explored areas of common interest for potential collaboration, as per the direction provided by Council in June 2002. He indicated that an outline of those areas would be presented at the next session of Alternate Representatives, with a view to reporting back to Council in June 2003. In response to a question from the Canadian Alternate Representative as to the status of the proposed letter of intent with the International Joint Commission (IJC), he indicated that the Secretariat would be pursuing discussions with IJC upon receipt of the United States' comments on the proposed letter.

Considering the delays encountered from year to year in the production of the CEC's annual reports, the Acting Executive Director stressed the need to examine ways to simplify the format

and/or process in order to release annual reports within a reasonable time frame. He noted that the Secretariat had recently submitted a proposal to that effect to the General Standing Committee (GSC), for consideration by the Parties.

Recalling the Council's direction provided at the 2001 Regular Session to seek outside partners and funding for the CEC's work, the Acting Executive Director reported on recent discussions with the World Bank who agreed to contribute US\$200,000 over the next two years in support of the CEC's work on Environmental Monitoring and Assessment, more specifically the human blood monitoring project in the three countries. He also reported on a second proposal from the World Bank consisting of an initial contribution of up to US\$500,000 to assist Mexico in the preparation of its POPs National Implementation Plan, with the possibility of an additional contribution of up to US\$3 million. He indicated that the proposals would be submitted to the Council for approval, as per the CEC's Financial Rules.

Noting that the CEC's office lease would terminate in November 2004, the Acting Executive Director underlined the importance for the CEC of taking advantage of the lead time for the negotiation of a new lease. He informed the Alternate Representatives that the Secretariat has initiated background work to support the negotiation process, with a view to reaching a decision by the June 2003 Council Session. He indicated and that a report would be submitted to the Alternate Representatives for consideration at their next session.

Referring to the recent suggestion by the Canadian Alternate Representative to the effect of re-establishing regular Secretariat updates on topics of interest at meetings of Alternate Representatives, the Acting Executive Director invited the Parties to suggest potential topics for the next meeting. Regarding the inquiry as to the actions undertaken by the Secretariat in terms of the Council's directions relating to the Article 13 electricity report—as outlined in the communiqué of the 2002 Council session—he indicated that the Council's directions had been captured in the 2003-2005 Program Plan.

### **Item 3 Report by the Chair of JPAC**

The JPAC Chair reported on the outcome of the JPAC meetings and public workshop on the CEC's proposed Program Plan for 2003-2005 and freshwater issues in North America, held in October 2002 in Albuquerque, New Mexico and the workshop on Finance and Environment held in December in Monterrey, Nuevo León. He informed the Alternate Representatives that JPAC would be submitting an Advice to Council on Financing as well as on Transboundary Environmental Impact Assessment. He alerted the Parties of tensions observed during the last JPAC meeting concerning a perceived lack of balance on the Advisory Group for the Article 13 report on the effects of transgenic Maize in Mexico.

The JPAC Chair thanked the Alternate Representatives for the Council's responses to various JPAC Advice and follow-up letters, including the Council's response relating to NAFTA Chapter 11. He indicated that the Parties that they would soon be receiving an invitation to participate in the JPAC workshop on NAFTA Chapter 11 to be held in March 2003.

Concerning the 10<sup>th</sup> anniversary of the NAFTA and NAAEC, he invited the Parties to consider holding a plenary session with the public on this issue at the June 2003 Council Session, and offered JPAC's assistance in that regard. He also drew attention to the points raised in the recent advice letter from the Canadian National Advisory Committee (NAC), including the creation of an independent committee similar in structure to the committee that carried-out the four-year review of the operation of the NAAEC. Referring to the 2003 Council Session, he informed the Alternate Representatives that JPAC had approved the draft agenda for a joint meeting with the Enforcement Working Group (EWG) to be held on the margins of the Council session.

In closing, he indicated that Mr. Gustavo Alanís-Ortega had recently been elected JPAC Chair for 2003 and he encouraged the United States and Canada to confirm the names of their new members on JPAC as soon as possible.

The Alternate Representatives thanked Mr. Plaut for his invaluable contribution and dedication to the CEC over the last eight years and welcomed Gustavo Alanís-Ortega as JPAC Chair for 2003. The Mexican representative took this opportunity to inform the JPAC Chair that Mexico was actively working towards having a new Mexican NAC in place in early 2003.

#### **Item 4 Adoption of Summary Records**

The Alternate Representatives approved the summary records of Sessions 02-02, 02-03, 02-04, 02-05 and 02-00 held in May and June 2002 as well as the summary of interventions made during the public portion of the 9<sup>th</sup> Regular Session of the Council. The Canadian representative highlighted the importance of getting the summary records approved in a more timely manner in future.

#### **Item 5 2003–2005 Proposed Program Plan**

The Alternate Representatives formally adopted the 2003-2005 Program Plan and commended the GSC and Secretariat staff for their excellent work in finalizing the review of the proposed Program Plan.

#### **Item 6 Submissions on Enforcement Matters under Articles 14 and 15**

##### **Item 6.1 Submission SEM-01-001: Cytrar II**

The United States, as Chair, provided a brief summary of the history of the Cytrar II submission. After having reviewed the Secretariat's Article 15(1) notification dated 29 July 2002, the Alternate Representatives instructed the Secretariat not to prepare a factual record with respect to the submission, as per Council Resolution 02-13 (Annex C).

#### **Item 7 CEC Rules of Procedure**

Following a linguistic review of the English, French and Spanish versions of the Council, JPAC, Employment and Financial Rules, the Alternate Representatives adopted the edited version of

these rules in the three languages, including amendments to Financial Rule 5.6 relating to funding and in-kind contributions (Annexes D, E, F, G).

**Item 8 Amended Guidelines for the North American Fund for Environmental Cooperation (NAFEC)**

Having reviewed the Secretariat's proposed revisions to the NAFEC Guidelines and JPAC's Advice to Council 02-02, the Alternate Representatives approved the proposed modifications to the NAFEC Administration and Funding Guidelines through the adoption of Council Resolution 02-12 (Annex H). The JPAC Chair noted that JPAC would continue to monitor the implementation of the Guidelines in order to ensure that they serve the best interest of the NAFEC and the CEC.

**Item 9 Strategic Planning and 10-Year Review Initiative**

The Secretariat presented an overview of its proposed approach for streamlining the CEC's program planning, evaluation and reporting process, with the goal of presenting a strategic framework for the Council's consideration in June 2003. The Alternate Representatives exchanged preliminary general views and indicated that further discussion was required on this issue.

The Secretariat also presented an outline of its proposed approach aimed at defining the terms of the 10-year retrospective of the NAFTA and NAAEC, as directed by the Council. Noting that many institutions have already begun their own review, the Secretariat underscored the importance of initiating the CEC's review as early as January 2003 in order to be in a position to provide Council with a progress report in June 2003, followed by a final report in early 2004. The Alternate Representatives exchanged general views on the Secretariat's proposed approach. In order to facilitate the Parties' internal consultation, the United States asked the Secretariat to provide a copy of its slide presentation in a more comprehensive and narrative form. Based on the Parties' comments, and those of the JPAC, the Secretariat would refine the proposal.

**Item 10 NAFTA Trade and Environment Ministers Meeting**

An official from the Office of the U.S. Trade Representative provided a brief update on the trade officials' discussions on the topic of "NAFTA promotion" and shared information on the scheduling of a series of meetings of the NAFTA deputies and the Free Trade Commission to be held over the next two years. The Canadian Alternate Representative inquired about the possibility for trade officials to consider scheduling one of their meetings concomitant with the regular session of the CEC Council, either in June 2003 in Washington or in June 2004 in Mexico. The official replied that the Parties had already assumed responsibility for hosting specific meetings, which did not coincide with those of the Council.

The Alternate Representatives agreed to explore with their Trade counterparts the possibility of holding an Article 10(6) officials meeting in March 2003 in order to exchange views on a potential agenda. It was also agreed that JPAC should be represented at the meeting, which will

be comprised of a government-only session and a government-JPAC session as per previous agreement by the Parties on format. The Alternate Representatives further agreed that, in preparation for the March meeting, a conference call at the staff level should be scheduled for mid-January. The United States, as Chair, will propose a date for such a call.

### **Item 11 2003 Council Session**

As host of the 2003 Council Session, the United States provided a brief update on the date and venue of the 10<sup>th</sup> Regular Session of the Council to be held from Monday June 23 to Wednesday June 25 at the Mayflower Hotel in Washington, D.C.

The Alternate Representatives also exchanged preliminary views on possible themes for the Council's agenda. Items proposed for the Parties' consideration include the 10-year Retrospective of NAFTA/NAAEC; Biodiversity Conservation Strategic Plan; Greening of Capital Markets and Innovative Finance; Children's Health; Review of the operation of Council Resolution 00-09 relating to Articles 14 and 15; Air Quality Border Initiative.

### **Item 12 Next session of Alternate Representatives**

The Alternate Representatives agreed to explore the possibility of holding a conference call in February 2003 in order to initiate discussions for the 2003 Council Session. They also agreed to explore the possibility of holding an Alternate Representatives as well as an Article 10(6) officials meeting on the margins of the 2<sup>nd</sup> Symposium on Assessing the Environmental Effects of Trade and JPAC meetings to be held from 24 to 27 March 2003 in Mexico City, noting that this would provide an opportunity for a joint meeting with JPAC. The JPAC Chair welcomed the opportunity for a joint meeting with the Alternate Representatives.

#### **Item 12.1 Other Issues**

The United States provided an update on the recruitment process for the position of Executive Director.

### **Item 13 Closure of the session**

In closing, the Alternate Representatives thanked the GSC and the Secretariat for their work and extended a special thank you to Jon Plaut.

**ANNOTATED AGENDA**

**SESSION 02-06 OF ALTERNATE REPRESENTATIVES**

Held via conference call on Wednesday, 11 December 2002  
from 10:00 AM to 2:00 PM, EST (9:00 to 1:00 PM, Mexico time)

CHAIR: United States

- Item 1 Adoption of the agenda
- Item 2 Report by the Acting Executive Director
- Item 3 Report by the Chair of JPAC
- Item 4 Adoption of summary records
- Item 5 Proposed 2003—2005 Program Plan
- Item 6 Submissions on Enforcement Matters under Articles 14 and 15
- Item 7 CEC Rules of Procedure
- Item 8 Amended Guidelines for the North American Fund for Environmental Cooperation (NAFEC)
- Item 9 Strategic Planning and 10-year Review
- Item 10 NAFTA Trade and Environment Ministers Meeting
- Item 11 2003 Council Session
- Item 12 Next session of Alternate Representatives
- Item 13 Closure of the session

**SESSION 02-06 OF ALTERNATE REPRESENTATIVES  
ANNOTATIONS TO THE AGENDA**

**Item 1 Adoption of the agenda**

The Council shall adopt the agenda.

DOCUMENTS:

- a) Draft annotated agenda, Rev.3 (distributed 5-12-2002) C/C.01/02-06/AGEN/01Rev.3

**Item 2 Report of the Acting Executive Director**

The Acting Executive Director will briefly address the Council on Secretariat activities and matters requiring their attention.

DOCUMENTS:

- a) Acting Executive Director's report (distributed 2-12-2002)

**Item 3 Report by the Chair of JPAC**

Under this item the JPAC Chair will provide an update to the Alternate Representatives on the JPAC sessions held on 3—4 October in Albuquerque, New Mexico and 9—10 December 2002 in Monterrey, Nuevo León.

DOCUMENTS:

- a) JPAC Advice to Council 02-10: The CEC and the Management of Freshwater in North America (distr. 16-10-2002)  
b) JPAC Advice to Council 02 11: Draft Commission for Environmental Cooperation Program Plan and Budget for 2003–2005 (distributed 22-10-2002)  
c) JPAC Summary Record 02-03 (distributed 8-11-2002)  
d) Memo dated 27 November 2002 from the JPAC Chair re: JPAC Chair for 2003 (distributed 27-11-2002)  
e) Council's multi-response letter to various JPAC correspondence (distributed 6-12-2002)  
f) Council's response to JPAC Advice 02-08 re: Capacity Building and Education Opportunities within the SMOC program (distributed 6-12-2002)  
g) Council's response to JPAC Advice 01-10 re: CEC and the Management of Freshwater in North America (distributed 6-12-2002)

**Item 4 Adoption of Summary Records**

In accordance with Council Rules of Procedure (R.11), the Acting Executive Director prepared the summary record of Sessions 02-02, 02-03, 02-04 and 02-05 of Alternate Representatives and of the 9<sup>th</sup> Regular Session of the Council and public portion of this session. The Alternate Representatives are expected to approve the summary records.

## DOCUMENTS:

- a) Session 02-02 of Alt. Reps held on 2 May 2002 (distr. 27-09-2002)
- b) Session 02-03 of Alt. Reps held on 23 May 2002, Rev.1 (distributed 27-09-2002)
- c) Session 02-04 of Alt. Reps held on 13 June 2002, Rev.1 (distr. 27-09-2002)
- d) Session 02-05 of Alt. Reps held on 17 June 2002, Rev.1 (distributed 27-09-2002)
- c) Session 02-00 (2002 Council Session (Rev. 1 distributed 27-09-2002) MX to send comments
- d) Summary of interventions made at the public portion of the Council Session, Rev.1 (distributed 27-09-2002)

**Item 5 2003–2005 Proposed Program Plan**

The Alternate Representatives are expected to address any outstanding issues requiring their attention before formally adopting the proposed 2003-2005 Program Plan.

## DOCUMENTS:

- a) Proposed 2003-2005 Program Plan and Budget, Rev. 1 (distributed 27-11-2002)
- b) Acting Executive Director's report (distributed 2-12-2002)
- c) Quarterly financial report for 9 months ended 30 September 2002 (distributed 30-10-2002)
- d) Timeline for the approval of the proposed 2003-2005 Program Plan (distributed 9-09-2001)
- e) Refer to document b) under the item 3 for the JPAC Advice to Council 02 11: Draft CEC Program Plan and Budget for 2003–2005 (distributed 22-10-2002)

**Item 6 Submissions on Enforcement Matters under Articles 14 and 15****Item 6.1 Submission SEM-01-001: Cytrar II**

Pursuant to Guideline 10(2), the Secretariat informed the Council on 29 July 2002 that it considers that submission 01-001 warrants developing a factual record. As provided by Article 15(2) of the NAAEC, Council may, by a two-thirds vote, instruct the Secretariat to prepare a factual record on the matter.

## DOCUMENTS:

- a) Draft Council Resolution (to be distributed by Mexico)
- b) Secretariat's Article 15(1) notification dated 29 July 2002

**Item 7 CEC Rules of Procedure**

Following the adoption of amendments to rules 4.7, 4.8, 5.3, 5.4 and 6.2(b)) of the CEC's Financial Rules during Session 01-06 of Alternate Representatives, the Parties have completed their review of rule 5.6 relating to funding from third party and in-kind contributions. The Alternate Representatives are therefore invited to adopt the amended version of Rule 5.6 of the CEC's Financial Rules.

In addition, further to the approval of the English and French versions of the CEC rules in February 1995, the Parties have completed a linguistic review of the English, French and Spanish versions. The Alternate Representatives are expected to adopt the Spanish version of the CEC rules as well as the edited English and French versions, which include the above-



mentioned amendments to the Financial Rules as well as amendments to rules 30(2) and 4.3 of the Rules of Employment adopted at Sessions 98-01 and 02-04 of Alternate Representatives, respectively.

DOCUMENT(S):

- a) Final Spanish version of the Council Rules of Procedures and edited French and English versions (to be distributed 9-12-2002)
- b) Final Spanish version of the JPAC Rules of Procedures and edited French and English versions (to be distributed 9-12-2002)
- c) Final Spanish version of the Financial Rules and edited French and English versions, including amendments to Rule 5.6 (to be distributed 9-12-2002)
- d) Final Spanish version of the Rules of Employment and edited French and English versions (to be distributed 9-12-2002)

**Item 8 Amended Guidelines for the North American Fund for Environmental Cooperation (NAFEC)**

Following an advice to Council made by the JPAC in March 2002, the Parties and the Secretariat have performed a review of the NAFEC Guidelines aimed at adapting these to the evolving practicalities of the fund. The Alternate Representatives are invited to formally adopt the amended version of the NAFEC Guidelines through the adoption of a Council Resolution.

DOCUMENT(S):

- a) Final version of amended NAFEC Guidelines (distributed 6-12-2002)
- b) Final draft Council Resolution (distributed 6-12-2002)
- c) JPAC Advice to Council 02-02: The North American Fund for Environmental Cooperation

**Item 9 Strategic Planning and 10-Year Review Initiative**

Under this item, the Secretariat will present an overview of its proposed strategic framework aimed at streamlining the program planning, evaluation and reporting and on the Secretariat's proposed approach for defining the 10-year review initiative.

DOCUMENTS:

- a) Memo to Alternate Representatives dated 25 October 2002 re: Progress update on Program Planning, Monitoring and Evaluation (distributed 25-10-2002)
- b) Secretariat's presentation: Strengthening Planning and Management at the CEC (distributed 22-11-2002)

**Item 10 NAFTA Trade and Environment Ministers Meeting**

As Chair for 2003, the United States may wish to provide an update on the planning of the NAFTA Trade and Environment ministers meeting.

DOCUMENTS:

- a) Proposed next steps for a potential Trade and Environment Ministerial (distributed by U.S.)

27-09-2002)

**Item 11 2003 Council Session**

Under this item, the Alternate Representatives may wish to exchange preliminary views on potential themes items for the 2003 Council Session.

DOCUMENTS: No document

**Item 12 Next sessions of Alternate Representatives**

The Alternate Representatives are expected to confirm the date of their next session tentatively scheduled for 25 February via conference call, in order to initiate discussions relating to the Tenth Regular Session of the Council to be held on June 24-25 2003 in Washington, D.C. The Alternate Representatives may also wish to exchange views on the proposed schedule of sessions for 2003.

DOCUMENTS:

- a) Schedule of sessions of Alternate Representatives for 2003 (to be distributed)

C/C.01/02-06/PLAN/01

**Item 13 Closure of the session**

The Chairperson is expected to close the session.

**Report of the Acting Executive Director  
on the Activities of the Commission for Environmental  
Cooperation  
Montreal, Canada  
Fall 2002**

## **1 PROGRAM UPDATE**

### **1.1 Environment, Economy and Trade**

Cooperation among the North American countries is essential to addressing regional environmental issues. It is also a cornerstone of a vibrant North American economy. A more integrated North American economy calls for a greater degree of coordination and cooperation to facilitate trade and establish complementary systems for environmental protection on a North American scale.

A more integrated economy also provides opportunities for employing economic incentives and financial instruments in support of sustainable development. It underscores the need to engage the principle economic actors in environmental protection and conservation in new ways. Farmers, businesses, consumers, landowners, investors and others hold the key to actualizing environmentally sustainable economic development. As they operate in an increasingly North America-wide economy, market-based mechanisms that are crafted for an integrated economy need to be put in place.

The Environment, Economy and Trade program area has three core objectives: (a) To improve the environmental assessment of trade liberalization and expanding economic activity in North America. The environmental assessment work is both backward-and forward-looking, to ensure that lessons learned from the past and current environmental impacts help guide the identification of emerging environmental issues, policy priorities and tools. (b) To identify market mechanisms that can act to support environmental protection and conservation goals. The guiding principle behind “green” markets is to translate the goal of “win-win” trade-environment links into concrete action that can be replicated in other market categories. (c) To explore the role of financing in the development of “green” market mechanisms that will favor positive environmental and energy developments, including carbon sequestration, energy efficiency, and renewable energy and sustainable trade.

#### **1.1.1 Assessing the Environment in the Context of North American Market Integration**

The CEC received 58 proposals in response to the call for papers for the second North American Symposium on Assessing Linkages between Trade and Environment. The Advisory Group met for the first time in Montreal, 16 September, and selected nine proposals to be presented at the upcoming symposium. Five of those selected focus on agriculture and three on energy; eight of the authors will receive financial support from the CEC to conduct their research and prepare their reports.

The symposium will be held in collaboration with UNEP in Mexico following the one-day JPAC public workshop on Chapter 11, most likely 24–26 March in Mexico City. UNEP will use lessons from the symposium, including some based on Mexico as a developing country that entered a trade agreement with two developed countries, to fulfill its mandate of helping to build the capacity of developing countries to do their own environmental assessments of trade agreements.

The CEC published a paper sponsored by the Ford Foundation, highlighting lessons and findings from the first North American Symposium on Understanding the Linkages between Trade and Environment. The paper, called “Trade and Environment: The Picture Gets Clearer,” is available as a small report, on the Web and extracts are being used to advertise the second symposium.

Environment, Economy, and Trade is collaborating with Law and Policy in producing a comparative analysis of

environmental regulations of intensive livestock operations at the state and provincial levels in Canada, Mexico, and the US that will be presented at the symposium. The CEC is also preparing background studies on invasive species, aboriginal groups, and displacement of pollution in sustainable agriculture.

To conclude our previous work on emerging environmental trends, the final report, entitled “Understanding and Anticipating Environmental Change in North America: Building Blocks for Better Public Policy,” has been submitted for publication and will be distributed to our stakeholders soon.

### **1.1.2 Supporting Environmental Protection and Conservation through Green Goods and Services**

The CEC has started adapting the methodology developed for green goods and services to collaborate with the Children and Health program’s project on the removal of lead in artisanal pottery in Mexico.

An exploratory meeting was hosted by the CEC, in Montreal, Wednesday, September 18, on the need for collaboration on Green Purchasing at the North American level. Participants represented the Center for the New American Dream (CNAD), TerraChoice Inc.(TCI), EPA, EC, Semarnat, Inform, Green Seal, industry, purchaser groups, ICLEI, CCC, and the CEC. A presentation by each NAFTA government’s environmental agency/ministry on their purchasing behavior was followed by the compilation of a list of constraints to fostering green purchasing facing these agencies in their governments. The goal was to move from the problems, to the tasks, and then to a structure to accomplish those tasks that are better addressed at a trilateral level. These constraints include:

- 1 Ignorance:
- 2 Lack of dedicated personnel:
- 3 Uncertainty and lack of good environmental information:
- 4 Misplaced concerns about the NAFTA/WTO trade rules; and
- 5 Need for incentives to change.

Institutional, industry, and individual constraints include:

- 1 Motivation: “What is the business case?”;
- 2 Lack of information;
- 3 Lack of regulatory obligations;
- 4 Scale considerations.

It was agreed that there were many commonalities between the three governments and institutions, industry, and individual constraints. There are a number of constraints that apply to industry in particular: lack of harmonized standards; lack of access to decision makers; inconsistent policy application; non-existent life-cycle costing idea; lack of legislation for better performance; and questions about voluntary labeling.

It was agreed that the CEC would serve as a secretariat to the North American Green Purchasing Initiative (a North American network of networks) to address macro constraints.

The following actions were proposed in the short run:

- 1 Quantify environmental benefits (a document that compiles good stories, and a communication media outreach effort about the environmental benefits of green purchasing, giving credit to government).
- 2 Develop a business case.
- 3 Create a web site of resources available (includes a compilation of what is already being done regarding the issues in items 5, 6, and 8 below (reporting methods, training, and life-cycle costing).

- 4 Create a coordinated communications system and a List Serve (including means for regular communication, and the inclusion of other potential contacts).

A document containing items 1 and 2 will be provided to the Parties in the winter of 2002. The following actions were proposed for the longer term:

- 5 Agree upon one standardized reporting method for each issue.
- 6 Develop standardized training materials on green purchasing that can be used by everyone.
- 7 Work with an existing accreditation body to develop a certification for green purchasing (with formal designation and delivery arm).
- 8 Develop standardized methodologies for life-cycle costing.
- 9 Develop a set of green purchasing awards: one at political level and another at operational level (delivery) that would be remitted by the Council.
- 10 Strengthen the connection between purchasers and suppliers (private and public sector).
- 11 Elicit a clear mandate for green procurement from the governments.
- 12 Create a baseline of information: quantification, where possible, of green purchasing.
- 13 Focus on Cancún meeting in Mexico for delivery of the results.

The group also suggested that we work with CEC's other projects and work groups (including the Pollution Prevention Round Tables and Environmental Management Systems' work), as well as other groups not represented here already, in creating potential synergies, finding new contacts and combining actions. The Secretariat is also examining our own purchasing policies practices to ensure that we are making a positive contribution to this file.

### ***Shade coffee***

The Mexican bank, Banamex, has agreed to translate the proposal for a sustainable agriculture fund (see below), which can now be distributed in Spanish in its draft form. Discussions continue with the World Bank and the *Consejo Mexicano del Café* to join forces to ensure more investment is channeled to these environmentally preferable goods, especially regarding carbon sequestration in agroforest coffee systems.

The CEC is supporting Conservation International to produce a manual to train coffee producers organized in cooperatives to develop their own credit applications. The CEC may continue collaboration with Conservation International to increase credit capacity by training cooperative members to do bookkeeping, financial analysis, handle credit applications and follow up interviews.

### ***Sustainable palm commercialization***

The palm commercialization report is currently going through the publication process in the three languages. The CEC is pursuing the commercialization potential with church-based groups, one of the largest consumers of the palm in North America.

## **1.1.3 Financing in Support of Environmental Protection and Conservation**

By the end of 2002, the CEC will have assessed "green financing" opportunities in the region, in addition to identifying public policies necessary to support significant financing initiatives.

### ***Financing and the Environment***

Following the March 2002 meeting on financing and the environment, the CEC has developed relationships with UNEP-FI (North American Task Force), UNEP, OECD, and Environment Canada to further the work on financing and the environment. A joint meeting will be held in November to assess the steps forward as a group. Another meeting is being prepared for the spring of 2003, to present further work on Transparency and Disclosure of

Environment-Related Financial Risks. The working level meeting with accounting firms, rating agencies, financing auditors, fund management companies, investment firms, securities exchanges and regulators will distill where and how environmental risks are financially important. Based on sectoral level work, best practices in reporting will also be developed.

The CEC, jointly with UNEP, is developing a background paper to provide information on the recent trends, the current status and immediate prospects for environment-related investment, including Foreign Direct Investment (FDI), as well as debt, equity and venture capital investments, to environment-related investments in developing countries, using Mexico as an example.

Some of these results will be presented at a joint program meeting between JPAC and the Environment, Economy, and Trade program area on “Investing in North America’s Future: Innovative Financing for Sustainable Development,” 9–10 December 2002, in Monterrey, Nuevo León, Mexico.

#### *North American Sustainable Agriculture Fund project*

The CEC has been studying and working for four years with the chain of producers and businesses handling sustainable coffee. Efforts over this period have confirmed the environmental and social benefits of sustainable coffee, its marketing potential, and a lack of access to credit on the part of sustainable coffee businesses along the business chain. The lack of access to credit is preventing the full realization of the economic, environmental and social benefits linked to sustainable coffee, by limiting the capacity of the chain to supply coffee at a consistent quality and quantity to produce scale economies for end-users. CEC research and analysis have demonstrated the economic viability of these systems and the potential for competitive returns on investment in this sector.

The CEC has identified this credit “crunch” as an unrealized “win-win” opportunity for investors and the environment alike and has prepared a proposal to create a funding vehicle that looks at just how this win-win opportunity might be realized. Instead of creating a completely new management structure to operate this fund, the CEC has presented the proposal to various entities already in place that could operate the fund on behalf of their investors. Organizations with whom the proposal has been discussed include the International Finance Corporation (IFC), the Inter-American Development Bank (IADB, most likely managing the fund as part of the Multilateral Investment Fund, MIF), the WorldBank, CitiGroup/Banamex, Environment Enterprises Assistance Fund (EEAF), and the Overseas Private Investment Corporation (OPIC). As well, the CEC is willing to talk with others.

The CEC is not a financial institution; rather, its goal is to work toward brokering ties among different actors along the sustainable agriculture chain, private financial sector, environmental organizations, and development agencies. Providing credit to the sustainable agriculture chain needs to be seen as a good investment that also feels good. It presents an opportunity for financial institutions to work toward the Johannesburg Implementation Plan that calls for:

- Encourag(ing) financial institutions to incorporate sustainable development considerations into their decision-making processes (chapter 17.c).
- Promot(ing) the development of micro, small and medium-size enterprises, by means of training, education and skill enhancement, with a special focus on agro-industry as a provider of livelihoods for rural communities (chapter 9.c).
- Provid(ing) incentives for investment in cleaner production and eco-efficiency in all countries, such as state-financed loans, venture capital, technical assistance and training programmes for small and medium-size companies, while avoiding trade-distorting measures inconsistent with WTO rules (chapter 15.b).

The fund also presents an opportunity to provide financing to biodiversity protection as called for in the Cancún Declaration of Like-minded Megadiverse Countries.

The next step is to find and finalize the selection of a partner that will function as the fund manager so the following activities can be accomplished:

- Finalize the proposal for formal presentations to potential funders.
- Establish the fund such that it meets financial, environmental and social objectives.

- Assist in raising financial resources for the establishment of the fund.

The CEC is now at a crossroads with this initiative. It cannot force institutions to invest in the fund. Virtually all of the necessary information has been created and provided to candidate institutions, the majority of which have expressed interest. However, no organization has yet committed itself to providing any funding. All have voiced the concern that the Parties (not necessarily the environmental ministries, but some part of each national government) need to invest as well in the establishment of the fund. Accordingly, the CEC has approached the development agencies in North America that are not currently investing in the coffee/environmental link in Mexico:

A. USAID (the US development agency) has announced a US\$6 million program to help Central American producers improve their coffee quality, but Mexico was excluded because of its level of production (fifth-largest producer of coffee in the world—more than all other Central American countries combined).

B. The Canadian International Development Agency has so far had a policy of not investing in OECD countries. Both have expressed interest but the Parties' involvement may be needed to remove institutional constraints.

C. The Parties could also help the Fund indirectly by including sustainable coffee in their procurement policies. Only 8–10 percent of procurement officers will make decisions based on environmental attributes, so procurement policies should be explored to create economies of scale that would allow prices for green goods to drop and their marketshare to increase. The CEC's work on procurement could be used to support the Parties in this initiative.

D. Government(s) can also guarantee loans, given the lack of access to collateral, that can be used as effective security, available to coffee producers. By offering guarantees and loans through the Fund, the government(s) can help change expectations that government loans are in fact government handouts or that they will carry far-below-market interest rates. This would help to foster the development of a healthy microfinance market.

E. The Parties could help lead outreach efforts to other national governmental departments (i.e., agriculture, farm credit agencies, development agencies) and other entities affiliated with the Parties.

In summary, two critical steps need to be taken at this time to assure the success of the North American Sustainable Agriculture Fund:

1. A lead partner needs to be identified so that the Fund can be physically established.
2. Financial commitments need to be obtained in some fashion from the Parties that represent a direct investment in the Fund.

### **1.3.3 Exploring Market-Based Mechanisms for Carbon Sequestration, Energy Efficiency, and Renewable Energy in North America**

The Secretariat is currently exploring key issues related to market mechanisms for reducing carbon in the atmosphere through carbon sequestration, renewable energy and energy efficiency. Consistent with the language of the June 2002 CEC Council Communiqué to pursue our efforts in a complementary fashion to those of the North American Energy Working Group, we have shared the first draft of the background paper with the Energy Working Group for its comment and review. The final paper will be available by the end of the year and will identify options for Council action.

The CEC has produced two papers on the electricity sector in Mexico. The first provides a description and update on recent changes in foreign and domestic private investment in Mexico's electricity sector and explores whether there is any relationship, between foreign direct investment in the sector and planned export (or importation) of electricity. The second report provides a brief description of changes underway, or being proposed, to promote renewable energy in Mexico. It provides information on proposed policy changes affecting renewable energy, and gives examples of innovative renewable energy projects.

A meeting is being planned for mid-January that will: 1) bring together North American businesses with experience

in either procurement or production of renewable energy for their own purposes and Mexican companies interested in purchasing or producing renewable electricity, and 2) explore the financial potential of such endeavors. In support of this meeting, a follow up will be conducted (a survey or focus group) on the CEC's survey of interest in renewable energy by industry in Mexico.

### **1.1.5 10(6) Environment and Trade Officials Group**

The Parties have received a draft agenda to work from. In January 2002, a meeting was tentatively set for November 2002, but the Parties have now suggested postponing it to next spring.

## **1.2 Conservation of Biodiversity**

### **1.2.1 Strategic and Cooperative Action for the Conservation of Biodiversity in North America**

In 2001, the CEC Council established the Biodiversity Conservation Working Group (BCWG), through Resolution: 01-03. The role of the BCWG is to provide recommendations and advice to the Council on the best ways to catalyze cooperative conservation action through a Strategic Plan. The first meeting of the Biodiversity Conservation Working Group was held in Montreal, Quebec, on 29 July. The terms of reference of the BCWG were agreed upon and a team was assigned the responsibility of developing the second draft of the Strategy. The members of the BCWG are currently reviewing the document developed by this team. This will be presented at the December JPAC meeting for review and feedback.

### **1.2.2 North American Bird Conservation Initiative**

In response to the request made by the CEC Council in 2001, a 1999–2002 review of NABCI was undertaken and presented in their 2002 annual meeting. Based upon the progress made, Council reiterated CEC's continuous support to this initiative.<sup>1</sup>

As NABCI becomes part of bird conservation institutional frameworks, starting in 2002, the CEC has been *gradually* shifting its resource allocation from operation to knowledge-base enhancement and on-the-ground project delivery. With regard to project implementation, following the recommendations from the second trinational NABCI meeting, (2001), in 2002, a joint effort to identify pivotal areas for implementing NABCI projects took place. Led by the analysis of a broad group of Mexican partners, based on the highest priority Important Bird Areas and the characteristics desired in all three countries in such projects, six *pivotal areas* were identified. These are Marismas Nacionales (Nayarit-Sinaloa), Chamela-Cuixmala (Jalisco), El Triunfo (Chiapas), the northeastern Yucatán peninsula (Ria Lagartos in Yucatán and Cozumel, and Sian Ka'an in Quintana Roo), El Cielo (Tamaulipas), and the grasslands of the Chihuahuan Desert.

Throughout 2002–2003, workshops have brought together local players from these areas and trinational partners to develop a portfolio of potential trinational cooperation projects. NABCI national coordinators, supported by national and trinational committees and the CEC, are working with such partners as Joint Ventures and others in Canada, Mexico and the US to form multiple links with these sites, based initially on shared migratory birds.

In 2002, the CEC contributed to the establishment of a compatible, comparable and consistent framework to assess—for the first time—the conservation status of birds throughout North America. In 2003, regional workshops will be continued in Mexico to complete this year's framework for data sharing and establishing common priorities. Canada and the United States already have mechanisms for assessing the status of birds, and Mexico's incorporation will allow for the first time a more complete understanding of the status of all birds in North America. This effort is assisted by the completion of the distribution maps of all Mexican birds—currently being completed and partly

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<sup>1</sup> Report available through the CEC web site: <[http://www.cec.org/files/PDF/BIODIVERSITY/nabci\\_Report-final-englishmaps.pdf](http://www.cec.org/files/PDF/BIODIVERSITY/nabci_Report-final-englishmaps.pdf)>.



supported in 2002 by the CEC.

### **1.2.3 Species of Common Conservation Concern**

In 2000, through a CEC report endorsed by the Canada/Mexico/United States Trilateral Committee for Wildlife and Ecosystem Conservation and Management, the wildlife services of the three nations agreed to work jointly for the protection of 17 species of wild birds and mammals considered “Species of Common Conservation Concern” (SCCC). Given that the majority of these species are associated with grasslands, the CEC is currently facilitating the process to secure the well being of grassland-SCCC through a strategy that takes into account the main issues and conservation needs at an ecosystem level.<sup>2</sup>

Following the recommendations of the Chihuahua Workshop, work towards the development of a trinational grasslands strategy has been focused on three objectives: 1) producing an assessment of collaboration opportunities with Mexico, based upon grassland conservation priorities at a national scale; 2) developing an updated map of grasslands, including an integrated database of conservation planning units; and 3) developing a continental assessment on issues and needs related to the Central grasslands of North America, which became the basis for developing the grassland strategy.<sup>3</sup>

The results of the workshop were presented at the 2002 meeting of the Canada/Mexico/United States Trilateral Committee for Wildlife and Ecosystem Conservation and Management, and its Executive Table supported the development of a strategy for achieving the vision established by the Chihuahua grasslands workshop.

In 2002, the trinational grassland framework will be completed and ready to guide the elaboration of joint recovery action plans for Species of Common Conservation Concern.

### **1.2.4 Mapping Marine and Estuarine Ecosystems of North America**

Expert opinion is being sought and data sets are being referred to so as to refine the classification system and draft map developed at the Charleston workshop. A meeting of the country leads and consultants is scheduled for late October to review the framework one last time before sending it out for peer review.

Requests for use of the map have already begun coming in. In their search and development of an ecozone system for evaluating the status of marine fish species, Committee on the Status of Endangered Wildlife in Canada (COSEWIC)’s Marine Fishes Specialist Group has requested and been given a draft version of the North American framework. MCBI and the NA MPA Network are also planning on using the map in the identification of priority areas within the Baja California to Bering Sea Region; NOAA and NatureServe have been exploring ways of using the map for their detailed classification work in the US; and INE is planning on adopting the Mexican portion of the framework for its national system.

### **1.2.5 North American Marine Protected Areas Network**

In order to advance this initiative, the following activities are being implemented:

#### ***Meeting of the Marine Expert Advisors***

Experts from the various academic institutions, governmental agencies, and nongovernmental organizations from throughout North America—advisors to the CEC on marine-related issues and projects—met in Montreal on 8–10 July 2002, to review progress to date on various CEC and related North American MPA Network initiatives. In order to address the pressures to North America’s coasts and oceans, participants supported continued involvement of the Secretariat in the ongoing projects and initiatives, and proposed that the CEC continue its work with the countries to develop a fully functioning and integrated North American MPA Network. The advisors also met to define possible future priorities for marine conservation action in North

<sup>2</sup> Report available on the CEC web site: <[http://www.cec.org/files/PDF/BIODIVERSITY/SCCC-Web-e\\_EN.pdf](http://www.cec.org/files/PDF/BIODIVERSITY/SCCC-Web-e_EN.pdf)>.

<sup>3</sup> See <[http://www.cec.org/files/PDF/BIODIVERSITY/Chihuahua\\_Meeting\\_Final\\_report-Reporte\\_final.PDF](http://www.cec.org/files/PDF/BIODIVERSITY/Chihuahua_Meeting_Final_report-Reporte_final.PDF)>.

America by identifying common threats to North American marine biodiversity, and conservation actions to address these threats through bi- and trilateral cooperation. The participants proposed that the following four areas, as yet unaddressed by the CEC, need further attention through holistic, inter/intra-institutional, inter/intra-sectoral and international cooperative efforts: 1) fisheries management and practices, 2) ocean and coastal development, transportation, and planning, 3) human-induced global system changes, and 4) ocean ethic and information.

### ***MPA Networking and Capacity Building (including Marine Conservation Targets and Indicators)***

#### *Integrated Management for the North American MPA Network*

To build on the initiatives underway, a white paper was drafted to plan strategically for a system of MPA networks—both human and ecological—spanning the critically important waters for the Canada, Mexico and the US. The MPA expert advisors are presently reviewing the paper.

#### *Inventory and Clearinghouse*

Led by WCPA-NA-Marine/WWF, a *Working Draft MPA Management Effectiveness Guidebook* has been drafted, and a workshop (23–27 September 2002) has been organized to launch the field-testing of the guidebook. Through the workshop, MPA managers and experts, who will be field-testing the guidebook, will: 1) gain a clearer understanding of the purpose, objectives, and structure of the Working Draft Guidebook, 2) work towards selecting the most appropriate biophysical, socioeconomic and governance indicators to assess the management effectiveness in pilot sites, and 3) develop a suitable work plan for implementation. In addition, feedback, experience, and perspectives from the different participant MPAs will be sought on how to improve the contents of the Working Draft Guidebook, as well as how to bring results together through a clearinghouse.

For the inventory, fields of the various inventories are being compared for their inclusion in the North American Inventory. Subsequently, institutional agreements will be made for information sharing through a distributed database model.

### ***Trinational Conservation Priorities and Measuring Effectiveness***

#### *Marine Species of Common Conservation Concern (MSCCC)*

During the Marine Experts Advisors' meeting, the list of 15 species was reviewed and other species were proposed for inclusion. Currently, the Task Team is reviewing the proposals. The marine species report is presently being peer reviewed and a joint publication on terrestrial SCCC and invasive species of concern is also being developed.

#### *Identifying Priority Areas for B2B*

Through a Conservation GIS Data Potluck—a workshop that brought together participants from the B2B region involved in the many GIS projects completed, underway, or in the early planning stages—additional information for the exercise was collected. The Data Potluck was sponsored and organized by the CEC, CPAWS, Ecotrust, the Marine Conservation Biology Institute (MCBI), and Surfrider. The group is looking into publishing a set of the data on CD-ROM.

A meeting is being planned for late October/early November to 1) review and analyze the data collected to date, and 2) finalize the methodology to be used during the final workshop to define the priority areas. By request of the US governmental members involved in the project, the final workshop to identify priority regions has been postponed to late winter/early spring.

## **1.2.6 Closing the Pathways of Aquatic Invasive Species across North America**

Work is underway (2002) to identify aquatic invasive species and pathways of common North American concern as

follow-through on recommendations identified at the Montreal meeting.

The trilateral working team has been established and a preliminary set of criteria has been developed following a similar methodology used to identify the Marine Species of Common Conservation Concern. A trilateral workshop will be held in San Diego, CA, to agree on a trilateral list of aquatic invasive species and priority pathways. A report will be developed describing the threat posed by each species and its level of invasiveness, its major pathways of introduction as well as priorities for collaborative efforts. This document will subsequently be brought together with both the terrestrial and marine species of common conservation concern reports.

### 1.3.3 North American Biodiversity Information Network

During the August 2002 meeting of the Expert Advisory Committee, agreement was reached on focusing NABIN's actions **in three interconnected thematic areas** to fulfill its mandate of improving access to information for better biodiversity conservation decision-making in North America:

1. **Service**, via an online web site/portal,
2. **Communication**, via meetings and other means, and
3. **Innovation**, via seed money for cutting edge initiatives.

The feasibility of developing a web site-portal prototype for NABIN was assessed regarding its architecture, database modeling and map interoperability, as well as its ability to support GIS integration for the following pilot projects (e.g., marine mapping, grasslands and NABCI-Y2Y).

For this purpose, available keyword sets and metadata standards were identified.

NABIN partner institutions participating in the North American Integrated Taxonomic Information System (ITIS-NA) will meet in November at the Smithsonian Institution to increase system access via common species names and develop the means by which other users link to these information sources.

In order to develop a common interface to access taxonomic and GIS information, the CEC is currently assessing alternatives to improve the map interface and interconnection of the ITIS-NA with other integrated biodiversity search engines such as the Species Analyst and the Mexican Network of Biodiversity Information (*Red Mexicana de Información sobre Biodiversidad—REMIB*).

NABIN participates in the Inter-American Biodiversity Information Network implementation plan, and metadata-cataloguing software was recently leveraged for NABIN use. Copyright issues related to biodiversity information are summarized in the Intellectual Property Rights paper contracted in 2001; this report was reviewed by the three governments and it has been accepted for publication. To support free access to biodiversity information, international NGOs proposed to consider it a *common resource*, and NABIN will be looking at a North American feasibility model for this Biodiversity Commons Initiative.

Marine data sets were gathered for the Pacific Coast of North America, during the Marine Conservation GIS Potluck. In addition, datasets for the terrestrial Species of Common Conservation Concern are being prepared to respond to integrated queries. These and additional datasets will be available to NABIN to support the integration of existing species and ecoregional information.

## 1.3 Pollutants and Health

### 1.3.1 Facilitating Trilateral Coordination in Air Quality Management

With its North American Pollutant Release and Transfer program (PRTR), the CEC co-sponsored a PRTR exchange program between Semarnat personnel and officials of the US EPA in Washington and Environment Canada in Ottawa during September and October 2002. The purposes of the visits were to learn the experiences, difficulties in implementation, legislation and validation and control mechanisms in each country in creating and developing their

national pollutant reporting registries.

### **1.3.2 Developing Technical and Strategic Tools for Improved Air Quality in North America**

The CEC has organized a meeting on “Best Available Technology” (BAT) for the control of air pollution from new sources, to be held in Montreal, on 29 October 2002. The meeting brings together government experts at the national, state/provincial, and local levels to discuss information resources and evaluation criteria for determining what are the best available air pollution control technologies that can be applied to proposed new sources in North America. One goal of the meeting is to provide advice on the scope and function of an information clearinghouse that can be used by government air quality managers in making these types of determinations.

### **1.3.3 Trinational Air Quality Improvement Initiative: North American Trade and Transportation Corridors**

The CEC is organizing a small workshop in Montreal to bring together health research experts in a discussion of common methodologies to assess population exposure to vehicle pollution in congested North American trade and transportation corridors. The goal of the workshop is to identify common elements needed in a research methodology that can be applied across North America, thus reducing or eliminating confounding artifacts that may arise from different research methods. The workshop will be held in mid-January 2003 at the CEC.

### **1.3.4 Sound Management of Chemicals**

The Sound Management of Chemicals (SMOC) initiative has provided a continuing and increasingly effective forum to facilitate cooperation and trinational agreements and action on reducing chemical pollution in North America, with particular focus on chemical substances that are persistent, bioaccumulative and toxic, through the implementation of the different North American Regional Action Plans (NARAPs). This initiative has proved itself to be an effective tool in protecting and improving the environment and achieving sustainable development in the region.

In the past year, the SMOC program has had a number of accomplishments: the chlordane NARAP has been completed, one new NARAP has been developed—on environmental monitoring and assessment—and another one is nearing completion—on dioxins, furans and hexachlorobenzene. During the last meeting of the SMOC Working Group, a recommendation for developing a NARAP on lindane was approved and forwarded to Council. The working group has been preparing a white paper to examine strategies for dealing with the broader suite of chemicals in a more timely manner. The World Bank and the Canada POPs Fund have expressed interest in receiving a project proposal from the SMOC program on monitoring persistent, toxic substances in human blood. Mexico has decided to use the CEC as the ‘executing agency’ for the development of their national POPs implementation plan to meet one of the key obligations of the Stockholm Convention on Persistent Organic Pollutants.

The CEC is cooperating with the UNEP Chemicals Program, the GEF and 11 other regional “nodes” to prepare a global report on POPs priorities. The objective is to assist developing countries in assembling project proposals for capacity building that will further Stockholm Convention implementation.

The SMOC Working Group held its 13<sup>th</sup> regular meeting jointly with the Joint Public Advisory Committee (JPAC) in November 2001, in Tucson, Arizona. As a result, JPAC has offered some useful advice to Council about the SMOC program. The SMOC Working Group also asked JPAC members for their advice on capacity building and on how SMOC could improve its public awareness, education and involvement processes. The 14<sup>th</sup> regular meeting of the SMOC Working Group was held 16–18 October, in Cuernavaca, Mexico.

A retreat of the SMOC Working Group was held early this year. It provided a forum for the Working Group, the CEC Secretariat and a few invited participants to begin an indepth assessment of the progress and accomplishments of the SMOC initiative to date and undertake some strategic thinking on the path forward. An objective was to consider obstacles to progress and identify opportunities for improving the viability and effectiveness of the

program. Special attention was devoted to observations and recommendations forwarded by JPAC regarding the NARAP development and implementation process, with a focus on improving public visibility and accessibility; encouragement for more involvement of the general and selected public in the task forces; and the suggestion of possible options for increasing stakeholder participation in the substance selection process.

SMOC Working Group members reaffirmed several directions:

1. Continue existing NARAPs and bring them to a successful conclusion in the context of a 'regional implementation' role, as allowed in the Stockholm POPs Convention.
2. Undertake a review of existing NARAPs to ensure that they generally conform to the Stockholm Convention.
3. Determine what persistent, bioaccumulative toxic substances may be of concern in a North American context in the future.
4. Complete a white paper identifying possible strategies for dealing with the broader cross-section of chemicals in commercial use today.
5. Continue with the SMOC leveraging strategy to identify outside funding sources and partners to support NARAP implementation.

In the Sound Management of Chemicals initiative, a number of actions have been launched and advanced: The results achieved under the DDT NARAP are being shared with the seven Central American countries to reinforce the implementation of the World Health Organization's Global Malaria Control Strategy. The main goal of this project is to demonstrate that methods for malaria vector control without recourse to DDT or other persistent pesticides are replicable, cost-effective and sustainable. These activities are being funded jointly by the CEC and the Global Environment Facility (GEF), with the Pan American Health Organization (PAHO) as the executing agency and UNEP the implementing agency. A grant proposal for US \$7.5 million directed to the GEF to assist with implementation of this NARAP was approved in late May 2002.

A communications package was prepared for the Stockholm POPs meeting in order to highlight the actions North America, and in particular Mexico, has taken to stop the production and use of DDT. A video on Mexico's DDT phase-out program was prepared and presented to the Health and Environment Ministerial meeting in March 2002. A second video on more educational efforts is in preparation. A series of fact sheets on all the NARAPs are also in preparation, to be used as communication tools for public dissemination.

The mercury NARAP comprehensively addresses the reduction of mercury emissions from human activities throughout North America. For this, the Secretariat assigned funds for a previous study to assess extending the coverage of the Mercury Deposition Network by installing two wet deposition collectors for mercury on Mexican territory. Success of this program is crucial to the task forces for the mercury and the monitoring and assessment NARAPs.

The Mercury Implementation Task Force has continued to focus priority on building capacity in Mexico by supporting education and awareness-raising initiatives for health professionals and educators. A pilot project to provide a hospital in Mexico City with mercury-free medical equipment has also begun. The program would substitute thermometers and perhaps provide mercury-free sphygmomanometers (the common apparatus for measuring blood pressure). Canada loaned two mercury air monitoring instruments to Mexico (Tekran) so that ambient levels of mercury in the vicinity of some key point sources of mercury can be identified and characterized. The Secretariat is also assisting Mexico in characterizing mercury releases and impacts on soil and vegetation in the Zacatecas area. With this backdrop, the mercury task force gathered in Zacatecas, 17–18 September 2002, and also supported the workshop for mercury characterization in the Zacatecana region on 19–20 September.

The SMOC Working Group approved a recommendation from the Substance Selection Task Force for a NARAP on lindane. The recommendation was forwarded to Council and approved in June 2002. Nomination of task force members from the three Parties is in process.

Considerable progress has been made in the implementation of the 1996 PCBs NARAP, as evidenced by the draft status report now being finalized. The proposal path forward for this document will include: a conference call in

early October; a request from task force to the Working Group to approve the final reviewed status report at its next meeting in Cuernavaca; and a meeting in February 2003 to advance the PCB file in a cooperative manner through the PCB task force.

The NARAP on chlordane has been underway since 1997. A key deliverable was stopping the use and production of this pesticide in North America. With the latest actions that Mexico has undertaken, this has now been accomplished. A final report describing all actions taken has been completed and the chlordane task force has recommended to the SMOC Working Group that the final report be published and the task force disbanded. A final report is in preparation. As there continues to be concern about illegal transboundary shipments of chlordane, the SMOC Working Group has written to the Enforcement Working Group to request its assistance in examining whether such problems exist.

The dioxins, furans and hexachlorobenzene task force has developed the phase 1 draft NARAP including terms of reference, a work plan, and a draft action plan that is now undergoing internal government review and will shortly be put forward for a 45-day public review.

Given Council's recent public statements of concern about lead, and following advice from JPAC, a Statement of Mutual Concern was prepared on lead and forwarded to the SMOC Working Group. The Working Group recommended that the task force begin to formulate an approach to stage 3, and outline a schedule for the completion of this work. The Substance Selection Task Force has undertaken a public review of the substance selection process and will request public feedback on its report shortly.

An environmental monitoring and assessment NARAP was approved by Council at the June Regular Session. Actions for establishing the implementation task force for the NARAP and developing the implementation plan are on their way.

### **1.3.5 North American Pollutant Release and Transfer Register (PRTR) Project**

Supporting the implementation of a mandatory, publicly accessible PRTR program in Mexico; promoting increased comparability among the three national PRTR systems; strengthening linkages with the SMOC program; and fostering innovative uses of PRTR data are the current areas of focus for the PRTR project.

Council Resolution 02-05 called for the CEC to provide technical assistance to Mexico to support the achievement of a mandatory and publicly accessible RETC. With supplemental funds made available in September 2002, the CEC has been able to begin providing this assistance. Four members of the RETC staff will spend a total of two weeks in Ottawa and Washington, DC, learning about the NPRI and TRI programs, respectively, and exchanging information with Canadian and US PRTR experts. Two additional RETC officials will spend one day in each capital city to discuss regulatory aspects of PRTR development. The CEC has hired a consultant to provide technical assistance to the RETC program as Mexico works on revising the PRTR reporting format and developing the implementing regulations. Support will also be provided for consultative meetings with PRTR stakeholders.

With the passage of Resolution 02-05, Council adopted the *Action Plan to Enhance Comparability Among Pollutant Release and Transfer Registers (PRTRs) in North America*. The *Action Plan* addresses important issues such as the trilateral use of the North American Industrial Classification System (NAICS), the use of comparable, activity-based reporting thresholds, and the need for improved comparability in reporting persistent toxic substances, including the SMOC substances—mercury, and dioxins, furans and hexachlorobenzene.

Stakeholders and members of the interested public from across North America convened for the annual meeting of the Consultative Group for the North American PRTR Project in Cuernavaca, Mexico, on 16–17 October 2002. The second day featured a joint public meeting with the SMOC program to explore ways of strengthening PRTR-SMOC linkages. The governmental PRTR officials met on 18 October to discuss the outcomes of the public meeting, and implementation of the Action Plan.

Exploring innovative uses of PRTR data is an area of increased activity within the CEC's PRTR project. The trinational Ad Hoc PRTR Group, composed of volunteers from industry, academia and civil society who are

interested in innovative uses of PRTRs, has embarked on a second project that will look at case examples in which PRTR reporting has led to pollution prevention and cost savings for industry. The CEC has published the workshop summary and a workshop statement from a meeting of academics held in Montreal in March 2002. The event, which explored the broad range of uses of PRTR data by academics in the three countries, led to a number of specific recommendations on improvements to PRTR reporting and data access, and for an increased role for the CEC in facilitating interaction and information exchange among academics and researchers across North America.

On the international front, the CEC will participate in a meeting of the Inter-organization Programme for the Sound Management of Chemicals (IOMC) PRTR Coordinating Group, of which the CEC is a member. The IOMC is a coordinating mechanism among a number of UN agencies and the OECD focused on issues of sound management of chemicals. The CEC was tasked with coordinating the preparation of the group's report on PRTRs worldwide, to be submitted to the Fourth Session of the Intergovernmental Forum on Chemical Safety (IFCS) in 2003. The CEC will be presenting the draft summary report at the November meeting.

### **1.3.6 Capacity Building for Pollution Prevention**

The Pollution Prevention Roundtable in Mexico held its third national event on 18–21 September 2002, in Guanajuato. The event was organized into four thematic workshops and five panels around various themes with participation of nearly 250 people.

Also, a meeting was held to discuss various aspects of the North American Pollution Prevention Partnership and the strategic plan to conduct the proposal presented to the CEC Council of Ministers in June 2002 after a public declaration on cooperation among the North American pollution prevention roundtables was disclosed during the national meeting of the Canadian Roundtable in Quebec in April, 2002. A trinational group consisting of representatives of the three roundtables has been established by the roundtable's partnership. The objective of the group is to meet periodically in order to work together in initiatives of common interest and to take advantage of the capacities of the three organizations. The group will be further developed to include representatives of industry, academia and governments in the three countries.

A regional pollution prevention roundtable was established in the US-Mexico border area in June 2002. An event took place in Matamoros, Mexico, in order to formalize and make operational an organizing committee in which participated around 80 people from the maquiladora industry, academia from both sides of the border, federal and local authorities. The regional roundtable is including the States of Tamaulipas, Nuevo León, Coahuila and Texas.

### **1.3.7 Children's Health and the Environment**

Recent highlights of the children's environmental health initiative have been the adoption by Council of the *Cooperative Agenda for Children's Health and the Environment in North America* through Council Resolution 02-06, Council's decision to include waterborne diseases as an additional priority area for the project, progress achieved in implementing selected elements of the *Cooperative Agenda*, and work being initiated by the Expert Advisory Board on training and education for health care professionals on children's environmental health issues.

The *Cooperative Agenda* outlines ongoing, planned and proposed activities for the CEC's children's environmental health initiative for the next several years. One of the actions is to develop a report on North American indicators of children's environmental health. This work is progressing, in collaboration with the IJC Health Professionals Task Force, the Pan American Health Organization (PAHO) and the World Health Organization (WHO). The Organization for Economic Cooperation and Development (OECD) has also recently joined the informal steering group. The focus this year is on preparing a feasibility study, the results of which will be reviewed by the steering group at a meeting in early December in Montreal as a basis for determining next steps in the development of the report.

The CEC is also initiating work on the first of a series of brief reports on the economic impacts of selected environment-related illnesses in children; commissioning a market study (together with the Green Goods and Services Project) on leaded and lead-free pottery in Mexico; and preparing for a workshop on risk assessment and children's health to be held in February 2003, in collaboration with SMOC and the NAFTA Technical Working

Group on Pesticides.

The Expert Advisory Board is preparing for their next meeting, the proposed focus of which is on promoting education and training for health care professionals on children's environmental health issues. The meeting will be held in early 2003, and will set the groundwork for a proposed high-level meeting in late 2003 with heads of medical, nursing and public health associations, health and environment officials and other relevant parties.

## **1.4 Law and Policy**

### **1.4.1 Comparative Report on Environmental Standards**

The Secretariat has completed a draft report on federal, state and local environmental requirements for Intensive Livestock Operations (ILOs) in Canada, Mexico and the United States. The purpose of the report is to draw some basic conclusions about the environmental requirements imposed on ILOs and to make recommendations on state of the art requirements. The report has been peer-reviewed and will be sent to the governments for review next month.

### **1.4.2 Environmental Sound Management of Hazardous Waste**

A final draft of the report "Environmental Sound Management of Hazardous Waste and Recyclables in North America" was distributed among the task force members for revision. Comments received back from the task force are being integrated to the final version of the report, which is to be translated and posted on the CEC web site by the end of the year.

For the tracking component of the project, a consultant was contracted to document and evaluate the information-related requirements and systems involved with hazardous waste import/exports between the NAFTA countries and to identify options for automating and improving processes. The final product will be a report presenting the information in narrative and workflow formats to facilitate comparisons among the three countries and allows for a systematic approach to identifying gaps and areas for improvement.

### **1.4.3 North American Regional Enforcement Issues**

The 2002 annual meeting of the Enforcement Working Group (EWG) took place 24-25 October. This meeting provided a face-to-face forum for the EWG and its different task forces to continue or finalize the planning process for current projects, and review and discuss the CEC 2003-2005 Program Plan.

Collaborative work between EWG and SMOC has now produced final drafts of the country sections for the report on tracking mercury imports and exports in North America. Once EWG and SMOC have given their final approval on these drafts, they will be sent to editing and translation.

### **1.4.4 Enforcement and Compliance Capacity Building**

Capacity building efforts of the EWG have focused this year on the illegal traffic of ozone depleting substances, transboundary enforcement cooperation and CITES enforcement of protected plants. Preparatory work for capacity-building workshops for government officials in each of these areas has been carried out by EWG task forces and NAWEG.

### **1.4.5 Enforcement and Compliance Reporting**

Wildlife enforcement has been selected as the central topic for the EWG's Special Enforcement Report. In close coordination with NAWEG, the CEC has completed a draft outline of the report for submission to EWG for its approval during its annual meeting in October.



## 1.4.6 Sustainable Use and Conservation of Freshwater in North America

The CEC has completed a draft of seven options for possible areas of CEC work on freshwater issues in North America. These options are being reviewed by the governments, the IBWC, IJC and JPAC.

## 2 PROGRAM PLANNING, MONITORING AND EVALUATION

An effort is being made to integrate the Program Monitoring and Evaluation process and the Program Planning exercise. A mapping exercise has been undertaken at the Secretariat to develop a strategic framework that will define clearer goals and results for each program area, which in turn will facilitate any future evaluation exercise. Simultaneously, program evaluations are proceeding and evaluation reports should be ready in Spring 2003. Conclusions drawn from the program evaluations will assist the Secretariat in refining the strategic framework and will provide the basis for a strategic plan to be presented to the Council in June 2003.

## 3 ARTICLE 13

The Secretariat has begun the process of developing its Article 13 report on issues related to the protection of plant genetic diversity for maize. The report proposes to examine several issues related to the conservation and sustainable use of traditional maize varieties in Mexico. These issues could include, *inter alia*, the relationship between the production of traditional maize varieties and the conservation and sustainable use of megadiversity in Mexico, the effects of trade liberalization in the farm sector, effects of non-traditional corn imports on the conservation of traditional maize varieties, and the effectiveness of domestic policy measures in place in Mexico, including the moratorium on planting transgenic corn varieties, and on protecting traditional maize varieties. An outline and timeline was distributed to the Parties on 5 September 2002.

At this date, all members of CEC's Advisory Group for the Article 13 maize report have been selected and José Sarukhan Kermes has agreed to be chairman of the group.

The first Advisory Group meeting is scheduled to take place later this fall in Montreal (date to be confirmed). A discussion paper is being prepared for this meeting which will provide relevant information on the socio-cultural and ecological aspects of traditional maize agriculture, related economic and market access issues, applicable national and international agreements, as well as legal frameworks.

## 4 ARTICLE 14 SUBMISSIONS

Eleven citizen submissions are currently active. For five of those submissions, Council unanimously voted on 16 November 2001 to instruct the Secretariat to prepare factual records, and the Secretariat's goal is to complete all five of those records prior to the 2003 Council Session. Two other factual records are also under development, and two Secretariat recommendations for preparation of factual records are currently pending a vote by Council. Finally, the Secretariat is considering whether to recommend factual records for two other submissions. The Secretariat has received four new submissions in 2002, to date, which is about the average.

***The status of the eleven submissions under review as of 30 September 2002 is as follows:***

### **Factual records in development:**

The following seven factual records are being developed as instructed by Council under Resolutions 01-08, 01-09, 01-10, 01-11, 01-12 (16 November 2001), 02-02 (7 March 2002), 02-03 (17 May 2002) respectively:

- 1) **Oldman River II.** SEM-97-006/*The Friends of the Oldman River* (concerning Canada's enforcement of the Canadian Environmental Assessment Act and the Fisheries Act)
- 2) **Aquanova.** SEM-98-006/*Grupo Ecológico Manglar A.C.* (concerning Mexico's enforcement in regard to the shrimp aquaculture activities carried on by the company Granjas Aquanova, S.A. de C.V. in Isla del Conde, San Blas, Nayarit).

- 3) **Migratory Birds.** SEM-99-002/*Alliance for the Wild Rockies, et al.* (concerning enforcement by the US of the Migratory Bird Treaty Act against logging operations).
- 4) **BC Mining.** SEM-98-004/*Sierra Club of British Columbia, et al.* (concerning Canada's enforcement of the Fisheries Act against mining operations in British Columbia).
- 5) **BC Logging.** SEM-00-004/*David Suzuki Foundation, et al.* (concerning Canada's enforcement of the Fisheries Act against logging operations in British Columbia).
- 6) **Río Magdalena.** SEM-97-002 / *Comité Pro Limpieza del Río Magdalena* (concerning Mexico's enforcement in relation to wastewater discharges).
- 7) **Molymex II.** SEM-00-005 / *Academia Sonorense de Derechos Humanos and Domingo Gutiérrez Mendivil* (concerning Mexico's enforcement in relation to air quality and environmental impacts of molybdenum processing plant).

The Secretariat began executing the overall plans to develop these seven factual records by inviting the Submitters, the Parties, JPAC, interested nongovernmental organizations or persons to submit information relevant to the factual records, in accordance with Article 15(4) of the NAAEC. The Requests for Information describing the scope of the information to be included in the factual records and giving examples of relevant information are posted on the CEC web site, as are the overall plans.

Prior to November 2001, the Secretariat had never had more than one factual record in development at one time. Consistent with Council Resolution 01-06, which encourages the Secretariat to make best efforts to process submissions in a timely manner, the Secretariat's current goal is to complete at least five of the factual records prior to the 2003 Council Session.

#### **Council votes pending on Secretariat recommendations for development of factual records:**

**Tarahumara.** On 29 August 2002, the Secretariat informed the Council that the Secretariat considers that submission SEM-00-006 / *Comisión de Solidaridad y Defensa de los Derechos Humanos, A.C* (concerning Mexico's enforcement in relation to access to environmental justice to indigenous communities) warrants developing a factual record.

**Cytrar II.** On 29 July 2002, the Secretariat informed the Council that the Secretariat considers that submission SEM-01-001 / *Academia Sonorense de Derechos Humanos, A.C. et al.* (concerning Mexico's enforcement in relation to this hazardous waste landfill) warrants developing a factual record.

**These submissions are awaiting Council's vote on whether or not to instruct the Secretariat to prepare factual records.**

#### **Determinations pending whether factual records are warranted under Article 15(1):**

- 1) **Ontario Logging.** SEM-02-001 / *Canadian Nature Federation et al.* (concerning Canada's enforcement of section 6(a) of the Migratory Bird Regulations against the logging industry in Ontario).
- 2) **Pulp and Paper.** SEM-02-003 / *Sierra Legal Defence Fund et al.* (concerning Canada's enforcement of the *Fisheries Act* and *Pulp and Paper Effluent Regulations* in connection with pulp and paper mills in Ontario, Quebec and the Atlantic Provinces).

These submissions are being reviewed by the Secretariat in light of the Party's responses to determine whether they warrant development of a factual record.

#### ***Historical Background of Submissions***

The twenty-four submissions that are no longer pending were addressed as follows:

Twelve submissions have been dismissed on the grounds that they did not warrant further consideration based on

Article 14(1) or (2):

- Spotted Owl – SEM-95-001/Biodiversity Legal Foundation et al.
- Logging Rider – SEM-95-002/Sierra Club et al.
- Tottrup – SEM-96-002/Aage Tottrup
- CEDF – SEM-97-004/Canadian Environmental Defence Fund
- Biodiversity – SEM-97-005/Animal Alliance of Canada et al.
- Guadalajara – SEM-98-001/Instituto de Derecho Ambiental, A.C., et al.
- Ortiz Martínez – SEM-98-002/Ortiz Martínez
- Molymex I – SEM-00-001/Rosa María Escalante de Fernández
- Jamaica Bay – SEM-00-003/Hudson River Audubon Society of Westchester, Inc., et al.
- AAA Packaging – SEM-01-002?
- Dermet – SEM-01-003/Mercerizados y Teñidos de Guadalajara, S.A.
- El Boludo Project – SEM-02-004/Arcadio Pesqueira Senday et al.

Two submissions have been terminated under Article 14(3)(a):

- Methanex – SEM-99-001//Methanex Corporation
- Neste Canada – SEM- 00-002/Neste Canada Inc.

Five submissions have been terminated under Article 15(1):

- Oldman River I– SEM-96-003/The Friends of the Oldman River
- Lake Chapala – SEM-97-007/Instituto de Derecho Ambiental
- Cytrar – SEM- 98-005/Academia Sonorense de Derechos Humanos
- Great Lakes – 98-003/Department of the Planet Earth et al.
- Mexico City Airport – SEM-02-002/ Jorge Rafael Martínez Azuela et al.

One submission has been withdrawn by the Submitters:

- Fort Huachuca – SEM-96-004/The Southwest Center for Biological Diversity et al.

Three factual records have been prepared and made public:

- Cozumel – SEM-96-001/Comité para la Protección de los Recursos Naturales, A.C. et al.
- BC Hydro – SEM-97-001/B.C. Aboriginal Fisheries Commission et al.
- Metales y Derivados – SEM-98-007/Environmental Health Coalition et al.

The Council has dismissed one submission under Article 15(2), following notification from the Secretariat that preparation of a factual record was warranted:

- Quebec Hog Farms – SEM-97-003/Centre québécois du droit de l'environnement et al.

## 5 PARTNERSHIPS

### *Regional Program of Action and Demonstration of Sustainable Alternatives for Malaria Control in Mexico and Central America Without the Use of DDT*

The results achieved under the DDT NARAP are being shared with the seven Central American countries. This

could reinforce the implementation of the World Health Organization's Global Malaria Control Strategy. The main goal of this project is to demonstrate that methods for malaria vector control without DDT or other persistent pesticides are replicable, cost-effective and sustainable. These activities are being funded jointly by the CEC and the Global Environment Facility. The Pan American Health Organization (PAHO) is the executing agency and UNEP the implementation agency. It is expected that an additional US\$6.6 million will soon be contributed by the GEF to support projects in the eight countries.

Some human and environmental monitoring activities have been done in Mexico during the last two years. It is expected that the resulting data and methods will strengthen the Mexican leadership in the Central American region and would provide some preliminary advance on the environmental monitoring and assessment NARAP.

A status report on the DDT NARAP was presented to the SMOC Working Group in October for its approval. After the success of this NARAP, the approval of the status report could be the last action of this NARAP under the DDT Task Force because the ultimate objective of the NARAP, to reduce exposure to humans and environment to DDT, could be carried out under the GEF Project.

A communications package was prepared for the Stockholm POPs meeting in order to highlight the actions North America, and in particular Mexico, has taken to stop the production and use of DDT. A video on Mexico's DDT phase-out program was prepared and presented to the Health and Environment Ministerial meeting in March 2002. A series of fact sheets are in preparation on all the NARAPs as a communication tool for public dissemination.

### ***Capacity Building Project for a POPs/Metals Biomonitoring Study to Identify Population Risk and Environmental Hotspots in North America***

The goal of this project is to develop and implement a biomonitoring project in North America to obtain a profile of population exposure to persistent organic pollutants (POPs) and metals and environmental hotspots and obtain an integrated baseline that can be used to determine priorities for and track progress in management of these substances domestically and on a broader cooperative basis within North America.

The World Bank has pre-approved US\$100,000 for this project. It has expressed interest in the work of the CEC because it is a good example of regional cooperation.

The CEC contribution to this project will be US\$50,050 the first year and \$50,000 the second.

The World Bank funding will be applied to capacity building activities for POPs and the CEC funding will include, in addition to administrative costs, some funding pertaining to capacity building sampling and analysis activities for metals.

Mexico has identified the CEC to the World Bank as an 'executing agency' for POPs implementation. This was a prerequisite for arranging funding support for POPs implementation planning.

## **6 ADMINISTRATION AND FINANCE**

### ***6.1 Financial Resources***

The third quarterly financial statement will be forwarded to the Parties on October 31.

### ***6.2 Human Resources***

The recruitment for the Media Outreach Officer has been completed. A candidate, Mr. Spencer Ferron Tripp, has been selected and Notice to Council has been sent.

The recruitment process for the program area head, Environment, Economy and Trade, to replace Scott Vaughan is underway.

## 7 COMMUNICATIONS AND OUTREACH

Utilization of the CEC's web site continues to grow, with large numbers of visitors using the site to search and download CEC publications and documents. From the beginning of June through the end of August, CEC's web site received 193,259 visits, with June being the peak month, seeing more than 90,000 visits. During the same period last year, the site received 143,107 visits. As in the past, many visitors to the CEC web site are downloading CEC publications and documents: 5,183 different documents were downloaded a total of 199,471 times. The greatest number of visits and downloads correspond closely to major announcements: *Taking Stock* (29 May) and the Article 13 electricity report (17 June) accounted for the bulk of publications downloaded during this time.

Since July, the Communications Department has made a series of announcements about the Secretariat's programs and meetings, while continuing to disseminate information about Commission and JPAC activities. Highlights include:

### 19 September 2002

#### **Preliminary findings from environmental contamination study call for continued investigation on mercury concerns in Zacatecas, Mexico**

Preliminary findings of a soil and vegetation sampling program in the Zacatecas area of Mexico confirm the presence of heavy metals, and substantiate the need for a continuing investigation to determine the impact on human health and the environment in the region.

### 6 September 2002

#### **CEC Secretariat recommends factual record on Tarahumara submission**

The Secretariat of the CEC recommended to Council that a factual record be developed on allegations by indigenous peoples and communities of the Sierra Tarahumara that the government of Mexico has failed to effectively enforce its environmental law with regard to allegedly illegal exploitation and destruction of forest resources in the Mexican state of Chihuahua.

### 5 August 2002

#### **CEC Secretariat recommends factual record on Cytrar II submission**

The Secretariat of the CEC has recommended to Council that a factual record be developed on allegations that the government of Mexico is failing to effectively enforce its environmental law concerning the closed Cytrar hazardous waste landfill near the city of Hermosillo, Sonora, Mexico.

### 24 July 2002

Community-based energy grants announced by North American environmental commission

Sixteen community-based environmental grants were awarded today by the North American Fund for Environmental Cooperation (NAFEC) to nongovernmental organizations in Canada, Mexico and the United States.

## 8 NORTH AMERICAN FUND FOR ENVIRONMENTAL COOPERATION

During the annual meeting of the Selection Committee of the North American Fund for Environmental Cooperation (NAFEC), held in June 2002, 16 projects were granted for a total of C\$688,300. Note that NAFEC received around 270 proposals in 2002.

This year the grants focused on projects related to renewable energy, energy conservation or energy efficiency, preference being given to projects that built on energy-related initiatives to develop other components of a

sustainable economy.

In addition, in an effort to estimate NAFEC's contribution to grantees' capacity for fundraising, the NAFEC staff has gathered information regarding the additional support leveraged during the past three years for NAFEC funded projects. Every dollar of NAFEC brings in C\$1.50 to \$2.00 from other funding sources. NAFEC will continue to keep track of this information and will make an update to the Parties.

NAFEC-funded projects continued to be profiled in *Trio*, CEC's quarterly bulletin, offering concrete examples of how the Commission's efforts play out in local community-based projects. Note that NAFEC projects are also publicized in the local press of the grantees.

Site visits to evaluate the progress made by some grantees will also be conducted by the end of this year.

Finally, following the Joint Public Advisory Committee (JPAC) Advice provided to Council on 8 March 2002, on the proposed modifications to the *NAFEC Administration and Funding Guidelines* to reflect the current realities of NAFEC and the CEC, the General Standing Committee has just finished finalizing the revision of this document.

10 December 2002

COUNCIL RESOLUTION 02-13

**Instruction to the Secretariat of the Commission for Environmental Cooperation regarding the assertion that Mexico is failing to effectively enforce its environmental law in relation to the establishment and operation of the Cytrar hazardous waste landfill, in the city of Hermosillo, Sonora, Mexico (SEM-01-001)**

THE COUNCIL:

SUPPORTIVE of the process provided for in Articles 14 and 15 of the *North American Agreement on Environmental Cooperation* (NAAEC) regarding submissions on enforcement matters and the preparation of factual records;

CONSIDERING the submission filed on 14 February 2001 relating to the above-mentioned matter by *Academia Sonorense de Derechos Humanos, A.C.* and Domingo Gutiérrez Mendivil, the Secretariat's request of 24 April 2001 to the Government of Mexico for a response, the 1 June 2001 response of the Government of Mexico, and the additional information provided by the Government of Mexico, including that dated 19 July 2001;

NOTING that, in its Party response, Mexico informed the Secretariat, pursuant to Article 14(3)(a) of the NAAEC, that the matter at issue in the submission is the subject of a pending international dispute resolution proceeding before the International Centre for Settlement of Investment Disputes;

MINDFUL that Article 14(3) of the NAAEC states that where a Party has advised the Secretariat within 30 days, or in exceptional circumstances and on notification to the Secretariat, within 60 days of the delivery of a request to the Party for a response, that the matter is the subject of a pending judicial or administrative proceeding, the Secretariat shall proceed no further; and

HAVING REVIEWED the notification by the Secretariat of 29 July 2002 indicating that the development of a factual record is warranted;

HEREBY UNANIMOUSLY DECIDES:

TO INSTRUCT the Secretariat not to prepare a factual record with respect to the above-mentioned submission; and

TO DIRECT the Secretariat to inform the Submitter of the resolution agreed upon by Council, relating to SEM-01-001.

APPROVED BY THE COUNCIL:

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Judith E. Ayres  
Government of the United States of America

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Olga Ojeda  
Government of the United Mexican States

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Norine Smith  
Government of Canada



**NORTH AMERICAN AGREEMENT  
ON ENVIRONMENTAL COOPERATION**

**COMMISSION FOR ENVIRONMENTAL COOPERATION**

**COUNCIL RULES OF PROCEDURE**

**Rule 1: Scope**

These Rules apply to the Council of the Commission for Environmental Cooperation (“Council”), established by the North American Agreement on Environmental Cooperation between the Government of Canada, the Government of the United Mexican States and the Government of the United States of America (“Agreement”).

**Rule 2: Council Structure**

- 2.1 Pursuant to Article 9(1) of the Agreement, the Council shall comprise cabinet-level or equivalent representatives of the Parties, or their designees.
- 2.2 Each Party shall notify the Secretariat of the Commission for Environmental Cooperation (“Secretariat”) of its representative, and of any change thereto, including the designation of an alternate representative. The Executive Director of the Secretariat of the Commission for Environmental Cooperation (“Executive Director”) shall notify the Parties and the Joint Public Advisory Committee (“JPAC”) of a Party's representative and of any change thereto.
- 2.3 When acting as representative, the alternate so designated shall have full authority to act in all matters within the competence of the representative under the Agreement.
- 2.4 Each representative may be accompanied to Council sessions by such advisors and experts as the representative may select.

**Rule 3: Sessions**

- 3.1 The Council shall convene at least once a year in regular session and in special session at the request of any Party.
- 3.2 At each regular session, the Council shall determine the dates and duration of the next regular session. Regular sessions shall be chaired successively by each Party and shall be held in the country of the chairing Party, unless the Council decides otherwise.
- 3.3 A special session shall be convened within six weeks of delivery of the request to the other Parties, unless the Council decides otherwise. The Council shall decide the date, time, place and manner of a special session and which Council member shall be the chair.

**Rule 4: Conduct of Business**

- 4.1 The Council shall hold public meetings in the course of all regular sessions. Other meetings held in the course of regular or special sessions shall be public where the Council so decides. A decision of the Council to convene a session shall be made public.

- 4.2 At Council sessions, no one may address the Council without previously having obtained the permission of the Chair. The Chair may call speakers to order when their remarks are not relevant to the subject under discussion.
- 4.3 Where persons, including representatives of nongovernmental organizations, advisors and experts, are invited to advise the Council at nonpublic regular or special sessions, such persons shall undertake to protect information designated as confidential pursuant to Articles 11(8) and 39 of the Agreement and sign a declaration to that effect.

**Rule 5: Secretariat**

- 5.1 Pursuant to Article 11(5) of the Agreement, the Secretariat shall provide for interpretation and translation and such other support as the Council may direct.
- 5.2 Unless the Council decides otherwise, the Executive Director, or her or his designee, shall attend all sessions of the Council.
- 5.3 The Executive Director may make oral and written statements to the Council.
- 5.4 The Executive Director shall be responsible for administrative arrangements for sessions of the Council.
- 5.5 In the performance of their duties, the Executive Director and the staff shall not seek or receive instructions from any government or any other authority external to the Council. Each Party shall respect the international character of the responsibilities of the Executive Director and the staff and shall not seek to influence them in the discharge of their responsibilities.
- 5.6 The Executive Director shall provide the Council with a cost estimate of a proposal not contemplated in the annual program and budget of the Commission for Environmental Cooperation (“Commission”) before the Council takes a decision on the proposal.
- 5.7 The Executive Director, acting promptly, shall transmit information, correspondence and reports to Council members, as appropriate.
- 5.8 The Executive Director shall forward to the Council copies of technical, scientific or other information or advice provided by JPAC.

**Rule 6: Public Meetings**

- 6.1 The Council may invite any person, including a representative of any province, state or intergovernmental or nongovernmental organization to advise the Council.
- 6.2 Any person, including a representative of any province or state, residing in the territory of a Party, or a nongovernmental organization established in the territory of a Party, or an intergovernmental organization, may make oral statements to the Council regarding agenda items for public meetings, provided they are accredited as participants.
- 6.3 Requests for accreditation as participants at a public meeting shall be addressed to the Executive Director. The Executive Director shall prepare a list of all persons, intergovernmental organizations, non-governmental organizations, and all representatives of provinces and states, requesting accreditation and that have an interest in the work of the Commission. The Executive Director shall transmit the list to the Council. The Council shall decide upon accreditation of participants 30 days before the public meeting. The Council may consider requests for accreditation received less than 30 days before the public meeting under special circumstances.
- 6.4 Errors made during the process of accreditation may be brought to the Executive Director for correction.

- 6.5 All oral statements to the Council shall be in an official language of the Commission. The Chair may set reasonable limits on the total number of statements by participants on an item and the time allowed for each statement. Due regard shall be paid to the importance of having an equitable proportion of oral statements from among the nationals of each Party.
- 6.6 Non-accredited persons may attend public meetings of the Council as observers on registration with the Executive Director, subject to availability of space, security considerations and with due regard to the importance of having an equitable proportion of attendees from among the nationals of each Party. If space is limited, attendance by observers shall be determined taking into account attendance by an equitable proportion from among the nationals of each Party. Non-accredited persons may not make oral or written statements at such public meetings.
- 6.7 To be considered at a public meeting, written statements must either be submitted in the three official languages of the Commission, or be submitted in sufficient time to allow for translation in advance of the meeting. The Council with the advice of the Executive Director shall decide which written statements shall be considered at the meeting. Written statements not submitted in the three official languages or in time for translation may be considered at a subsequent Council session.

#### **Rule 7: Committees, Working Groups and Experts Groups**

- 7.1 The Council may establish and assign responsibilities to *ad hoc* or standing committees, working groups or expert groups as it may require to fulfill its mandate. The Council shall establish the terms of reference, guidelines and budget for the committees and groups. The Council may request the Executive Director to assist in carrying out these functions.
- 7.2 Subject to the terms of reference, guidelines and budget established by the Council under Rule 7.1, the committees and groups may seek advice and information from JPAC, Provinces, States, participants, nongovernmental and intergovernmental organizations, independent experts and affected members of the public as necessary in order to fulfill their mandates.
- 7.3 The Secretariat shall provide technical, administrative and operational support to committees and groups established by the Council, and such other support as the Council may direct.

#### **Rule 8: Decisions and Recommendations**

- 8.1 Decisions shall be taken and recommendations shall be made when all of the Council members are present either in person or, if the Council so agrees, through electronic means.
- 8.2 All decisions and recommendations of the Council shall be taken by consensus, except as the Council may otherwise decide or as otherwise provided in the Agreement.
- 8.3 Each Council member shall have one vote. Where a vote is required by decision of the Council or by the Agreement, decisions and recommendations shall require the casting of at least two votes. An abstention shall not be counted as a vote.
- 8.4 All decisions and recommendations of the Council shall be made public except as the Council may otherwise decide or as otherwise provided in the Agreement.

#### **Rule 9: Agenda**

- 9.1 All items on the agenda of the Council session shall be within the scope of the Agreement.

- 9.2 The Executive Director shall prepare and transmit lists of proposed agenda items for each regular session. The lists shall include any items proposed by Parties, items related to the Executive Director's responsibilities as defined in the Agreement, items proposed by JPAC and items proposed by other interested persons residing or established in a territory of a Party.
- 9.3 The Council shall prepare the provisional agenda for a regular session with the assistance of the Executive Director, taking into account the lists in Rule 9.2. The provisional agenda shall reflect in an equitable manner the interests of each of the Parties.
- 9.4 The Executive Director shall send supporting documents for a regular session of the Council to all Council members 30 days prior to the session. At the same time as supporting documents for a regular session are submitted to the Council, the Executive Director shall also send to the members of JPAC, copies of documents relevant to their mandate.
- 9.5 The provisional agenda for a public meeting shall be made public as far in advance of the meeting as possible.
- 9.6 The Council shall adopt the agenda for a session at the beginning of that session based on the provisional agenda.
- 9.7 The provisional agenda for a special session shall consist of those items proposed for consideration in a Party's request for a special session. The requesting Party shall also provide relevant supporting documents. The provisional agenda for a special session may be made public before the session if the Council so decides.

#### **Rule 10: Annual Reports**

The Secretariat shall prepare an annual report of the Commission in accordance with instructions from the Council. The Secretariat shall submit a draft of the report for review by the Council. The final report shall be released publicly.

#### **Rule 11: Summary Records**

The Executive Director shall prepare summary records of Council sessions and submit them to the Council in the official languages of the Commission for approval. Speakers shall have the opportunity to submit corrections to the summary records of their remarks before they are finally approved by the Council. The Council shall promptly make publicly available summary records of public meetings.

#### **Rule 12: Consultation with the Joint Public Advisory Committee**

- 12.1 The Council may request advice or technical, scientific or other information from JPAC on any matter within the scope of the Agreement, including on any documents submitted or proposed for approval by the Council.
- 12.2 The Secretariat shall provide to JPAC, at the time they are submitted to the Council, copies of the proposed annual program and budget of the Commission, the draft annual report, and any report the Secretariat prepares pursuant to Article 13 of the Agreement.

#### **Rule 13: Languages**

- 13.1 The official languages of the Commission shall be English, French and Spanish. All annual reports under Article 12 of the Agreement, reports submitted to the Council under Article 13 of the Agreement, factual records submitted to the Council under Article 15(6) of the Agreement and panel reports under Part Five of the Agreement shall be available in each official language at the time they are made public. Other official

documents which are made available to the public shall be in all official languages, unless otherwise decided by the Council.

- 13.2 Simultaneous interpretation into the three official languages shall be provided at Council sessions, unless otherwise decided by the Council.

**Rule 14: Definitions**

The definitions set out in Article 45 of the Agreement apply to these Rules, as appropriate.

**Rule 15: Amendment of Rules**

These Rules may be amended by the Council.

**Rule 16: Overriding Authority of the Agreement**

In the event of any inconsistency between these Rules and the Agreement, the Agreement shall prevail to the extent of the inconsistency.

**NORTH AMERICAN AGREEMENT  
ON ENVIRONMENTAL COOPERATION**

**COMMISSION FOR ENVIRONMENTAL COOPERATION**

**JOINT PUBLIC ADVISORY COMMITTEE RULES OF PROCEDURE**

**Rule 1: Scope**

These Rules apply to the Joint Public Advisory Committee of the Commission for Environmental Cooperation ("JPAC") established by the North American Agreement on Environmental Cooperation between the Government of Canada, the Government of the United Mexican States and the Government of the United States of America ("Agreement").

**Rule 2: Joint Public Advisory Committee Structure**

- 2.1 JPAC shall comprise fifteen members, unless the Council of the Commission for Environmental Cooperation ("Council") otherwise decides. Each Party or, if a Party so decides, its National Advisory Committee convened under Article 17 of the Agreement, shall appoint an equal number of members.
- 2.2 Prior to appointment, the Parties shall confer regarding their nominees to JPAC. Each Party shall notify the Executive Director of the Secretariat of the Commission for Environmental Cooperation ("Executive Director") and the members of the Council of the names and addresses of the JPAC members appointed and of subsequent changes. The Secretariat of the Commission for Environmental Cooperation ("Secretariat") shall immediately inform JPAC of such appointments.
- 2.3 Each member shall comply with the provisions of Annex A regarding the standards of conduct, confidentiality and travel.

**Rule 3: Chair**

- 3.1 JPAC shall choose a Chair from among its members for a one-year term, renewable by JPAC for no more than two additional one-year terms. The Chair shall rotate consecutively among the appointees of each Party.
- 3.2 The Chair shall retain the right to vote.

**Rule 4: Sessions**

- 4.1 JPAC shall convene at least once a year at the time of the regular session of the Council and at such other times as the Council, or JPAC's chair with the consent of a majority of its members, may decide. The members of JPAC may participate either in person or through electronic means.
- 4.2 Meetings of JPAC that coincide with Council sessions shall be held at the same venue. All other meetings shall be held in the territory of a Party as determined by JPAC.
- 4.3 JPAC shall choose one of its members at each meeting to keep the minutes. The members of JPAC shall have an opportunity to make corrections to the minutes before they are finalized.

**Rule 5: Functions**

- 5.1 JPAC may provide advice to the Council on any matter within the scope of the Agreement, including on any

documents provided to it under Article 16(6) of the Agreement and on the implementation and further elaboration of the Agreement, and may perform such other functions as the Council may direct. JPAC reports and recommendations shall incorporate all points of view of JPAC members.

- 5.2 JPAC may provide relevant technical, scientific or other information to the Secretariat, including for purposes of developing a factual record under Article 15 of the Agreement. The Secretariat shall forward to the Council copies of any such information.

**Rule 6: Resolution of Matters**

On matters requiring a decision, members shall make every effort to reach agreement by consensus. If all efforts to reach consensus fail, the matter shall be resolved by a vote. A quorum shall be constituted when three appointees from each Party are present. Decisions shall be taken by a majority of members present and voting provided that such majority shall include at least two appointees of each Party.

**Rule 7: JPAC Working Groups**

- 7.1 As appropriate, JPAC may establish working groups of limited membership from among its members.
- 7.2 JPAC shall determine the method of selection, terms of reference and working methods of working groups. JPAC shall establish deadlines for the working groups to complete their tasks, taking into account budgetary constraints. There shall be no permanent working groups.
- 7.3 The working groups may meet at the time of JPAC meetings unless JPAC decides otherwise. The members of JPAC may participate either in person or through electronic means.

**Rule 8: Agenda**

- 8.1 The Chair, in consultation with the members of JPAC, shall prepare the provisional agenda for a meeting. The Executive Director shall distribute the provisional agenda, together with supporting documents, to the Council and to JPAC members 15 days before each meeting.
- 8.2 JPAC shall adopt the agenda at the beginning of each meeting and may delete, defer or amend items. Only items which are considered by JPAC to be urgent and important may be added to the agenda.

**Rule 9: Languages**

- 9.1 The official languages of JPAC shall be English, French and Spanish.
- 9.2 Simultaneous interpretation into the three official languages shall be provided at JPAC meetings, unless otherwise decided by JPAC.
- 9.3 Official documents of JPAC shall be made available in the three official languages, unless otherwise decided by JPAC.

**Rule 10: Definitions**

The definitions set out in Article 45 of the Agreement apply to these Rules, as appropriate.

**Rule 11: Amendment of Rules**

These Rules may be amended by the Council only, taking into account the advice of JPAC.

**Rule 12: Overriding Authority of the Agreement**

In the event of any inconsistency between these Rules and the Agreement, the Agreement shall prevail to the extent of the inconsistency.



**JOINT PUBLIC ADVISORY COMMITTEE RULES OF PROCEDURE**

**ANNEX A**

**STANDARDS OF CONDUCT, CONFIDENTIALITY, AND TRAVEL**

**Rule 1: Standards of conduct**

JPAC members, when performing their official duties, shall at all times conduct themselves in a manner befitting the international nature of their responsibilities. In the best interest of the Commission, JPAC members shall exercise discretion and tact in the performance of their duties.

JPAC members shall not seek or receive instruction from any government.

JPAC members shall not directly or indirectly solicit or accept gifts from any source that would compromise their independence as JPAC members.

**Rule 2: Confidentiality**

JPAC members shall safeguard from public disclosure any information received in their official capacity from a Party, the Council, the Secretariat, or a member of the public, where the information is designated by that entity as confidential or proprietary.

JPAC members shall not use for personal gain information acquired in their official capacity, unless such information is in the public domain or such use is authorized by the Council.

JPAC members shall comply with such rules and procedures as the Council may adopt regarding the disclosure and use of information and materials of the Commission.

**Rule 3: Travel**

The Executive Director shall authorize official travel of JPAC members taking into account budgetary constraints.

Payment for official travel expenses will be based on reasonable and documented expenditures for accommodation, meals, economy class air fares and related expenditures.

**NORTH AMERICAN AGREEMENT  
ON ENVIRONMENTAL COOPERATION**

**COMMISSION FOR ENVIRONMENTAL COOPERATION**

**RULES OF EMPLOYMENT**

**SECTION I: GENERAL PROVISIONS**

**Rule 1: Definitions**

In these Rules:

"**Agreement**" means the North American Agreement on Environmental Cooperation between the Government of Canada, the Government of the United Mexican States and the Government of the United States of America, which entered into force on 1 January 1994;

"**Commission**" means the Commission for Environmental Cooperation established under Article 8 of the Agreement;

"**Council**" means the Council of the Commission established under Article 9 of the Agreement;

"**employees**" means the staff and the Executive Director of the Secretariat of the Commission;

"**Parties**" means the Parties to the Agreement;

"**Secretariat**" means the Secretariat of the Commission established under Article 11 of the Agreement; and

"**staff**" means the professional staff and the support staff of the Secretariat, but does not include the Executive Director.

**Rule 2: Scope**

2.1 These Rules set out terms and conditions of employment, working relationships and rights and responsibilities of the employees in the service of the Commission.

2.2 These Rules apply to the Executive Director, unless they vary from her or his terms and conditions of employment as established by the Council, in which case the terms and conditions established by the Council shall prevail.

**SECTION II: DUTIES, OBLIGATIONS AND PRIVILEGES**

**Rule 3: Conduct in the Interest of the Commission**

The responsibilities of employees are international in character. Employees shall carry out their duties and regulate their conduct bearing in mind the interests of the Commission.

**Rule 4: Authority of the Executive Director**

4.1 Staff shall be supervised by and accountable to, and have their powers and duties regulated by, the Executive

Director.

- 4.2 The Executive Director shall designate a member of the staff to act on his or her behalf when necessary.
- 4.3 In the event the position of Executive Director is vacant, or the Executive Director is unable to appoint a member of staff to serve on his or her behalf pursuant to Rule 4.2, the Council shall designate a member of staff to serve as Acting Executive Director.

**Rule 5: Accountability of Executive Director**

The Executive Director shall be accountable only to the Council.

**Rule 6: Standards of Conduct**

- 6.1 Employees shall at all times conduct themselves in a manner befitting the international nature of their responsibilities. They shall exercise loyalty, discretion and tact in the performance of their duties. They shall avoid any action, and in particular any kind of public pronouncement, which may adversely reflect on the Commission or their status as employees, or on the integrity, independence and impartiality required by that status.
- 6.2 Employees shall not seek or receive instructions from any government or any other authority external to the Council.
- 6.3 The Secretariat shall provide all employees with an equal opportunity working environment free of discrimination and harassment. Complaints by staff in such matters shall be resolved in accordance with Section XI of these Rules.

**Rule 7: Prohibition Against Soliciting or Accepting Gifts**

In connection with their employment, employees shall not directly or indirectly solicit or accept:

- (a) any money; or
- (b) any gift, honorarium, commission, reward, advantage or benefit, not including those accepted or offered occasionally of a value of less than 25 U.S. dollars or its equivalent in Canadian dollars or Mexican pesos.

Gifts, honoraria, commissions, rewards, advantages or benefits include goods or services, alcohol, reduced prices for goods or services, work done gratuitously with respect to personal property, preferred treatment of any sort in a business enterprise and loans of money, material or equipment of any kind.

**Rule 8: Outside Employment**

- 8.1 Employees shall have no employment other than with the Commission during their term of employment, except as provided under this Rule.
- 8.2 When duly authorized by the Executive Director in the case of the staff, and by the Council in the case of the Executive Director, an employee may undertake other employment or work, provided that it shall not interfere or conflict with the work of the Commission or the employee's duties and responsibilities.

**Rule 9: Outside Interest Prohibited**

- 9.1 Employees shall not engage in any activity of any business, governmental entity, labour union, environmental or conservation or other nongovernmental organization or other entity that presents a conflict of interest with respect to their duties and responsibilities.
- 9.2 Employees shall not be associated in the management of, have a financial interest in, or seek employment with, any entity if, by virtue of their employment with the Commission, they may benefit from such association or interest.
- 9.3 Members of the staff shall advise the Executive Director in writing of any real or potential conflict between their official duties and any outside activity, association or interest. The Executive Director shall advise the Council in writing of any real or potential conflict between his or her official duties and any outside activity, association or interest. Failure to do so may constitute grounds for disciplinary action, including dismissal.
- 9.4 Where an employee has a real or potential conflict related to such activity, association or interest, the employee shall discontinue the activity or association, and shall dispose of the interest, unless the Council decides otherwise.

**Rule 10: Intellectual Property of the Commission**

All rights, including title, copyright and patent rights, in any work produced by employees in the course of their employment shall be vested in or assigned to the Commission. Such rights may be waived by the Executive Director in the case of a staff member and by the Council in the case of the Executive Director.

**Rule 11: Privileges and Immunities**

- 11.1 Employees shall enjoy the privileges and immunities to which they are entitled by virtue of any agreement between the Parties or between the Commission and a Party, or pursuant to domestic legislation.
- 11.2 Privileges and immunities are granted to employees in the interest of the Commission and not for the personal benefit of the individuals concerned. In particular, they shall not excuse employees from the performance of their private obligations or from the due observance of the law applying to them at the place where they are carrying out their duties. In any case where the question of claiming immunity from legal suit or process may arise, the staff member involved shall immediately report to the Executive Director, who shall decide whether the immunity shall be waived. In any case involving the privileges and immunities of the Executive Director, the Council shall decide whether the privileges and immunities shall be waived.

**SECTION III: CONFIDENTIALITY****Rule 12: Confidentiality**

- 12.1 Employees shall act at all times in accordance with Articles 11(8) and 39(2) of the Agreement.
- 12.2 Employees shall not disclose or use for personal gain, either during their period of employment or at any time thereafter, directly or indirectly, unless duly authorized, information acquired in the course of their employment unless such information is in the public domain at the time of such disclosure or use. Such authorization shall be granted by the Executive Director in the case of the staff and by the Council in the case of the Executive Director.
- 12.3 Employees shall comply with such rules and procedures as the Council may adopt regarding the disclosure and use of information and materials of the Commission.

- 12.4 Employees shall sign a declaration regarding disclosure and use of information prior to the commencement of employment with the Commission.

#### **SECTION IV: RECRUITMENT AND APPOINTMENT**

##### **Rule 13: Executive Director**

The Council shall appoint an Executive Director for a three-year term, which may be renewed for one additional three-year term. The position of Executive Director shall rotate consecutively between nationals of each Party. The Council may remove the Executive Director solely for cause.

##### **Rule 14: Staff**

Subject to Rule 15, the Executive Director shall appoint and supervise the staff and regulate their powers and duties in accordance with the following general standards:

- (a) staff shall be appointed and retained, and their conditions of employment shall be determined, strictly on the basis of efficiency, competence and integrity;
- (b) in appointing staff, the Executive Director shall take into account lists of candidates prepared by the Parties and the Joint Public Advisory Committee; and
- (c) due regard shall be paid to the importance of recruiting an equitable proportion of the professional staff from among the nationals of each Party;

and any further general standards established by the Council.

##### **Rule 15: Council Oversight of Staff Appointments**

The Executive Director shall inform the Council of all appointments three weeks prior to making a formal offer of employment. The Council may decide, by a two-thirds vote, to reject any appointment that does not meet the general standards set out in Rule 14. Any such decision shall be made and held in confidence.

##### **Rule 16: Offer of Employment**

Each prospective staff member shall receive an offer of employment stating:

- (a) the nature of the appointment, including the duties of the position and its title;
- (b) the date of appointment;
- (c) the duration of appointment, either on a fixed term or a continuing basis;
- (d) the relevant category, level, initial salary, scale of increments, any allowances and provision for relocation expenses, if applicable;
- (e) any special terms and conditions;
- (f) that appointment and employment are subject to these Rules as amended from time to time; and

- (g) that the appointment shall only be valid if accepted within a specified period.

**Rule 17: Rules to be Issued to the Staff**

With the offer of employment, prospective staff members shall receive a copy of these Rules. On acceptance of the offer, they shall indicate in writing to the Executive Director that they are familiar with, and agree to abide by, these Rules.

**Rule 18: Temporary Staff**

The Executive Director may hire temporary staff as necessary, provided the number of temporary and regular staff, excluding those on leave, shall not exceed the number of staff positions established by the Council. Temporary staff will be subject to the terms and conditions of their employment contract in accordance with these Rules, as applicable.

**SECTION V: HOURS OF WORK**

**Rule 19: Work Week**

The normal work week for staff will be 37 1/2 hours Monday through Friday and the normal work day will be 7 1/2 hours, exclusive of a lunch period. The Executive Director may grant a compressed or flexible work schedule when compatible with the operational requirements of the Secretariat.

**Rule 20: Overtime and Compensatory Leave**

Compensatory leave for staff may be approved if the Executive Director determines that a significant amount of time beyond the normal work week is required to carry out their duties. In unusual circumstances, the Executive Director may approve overtime pay for support staff in lieu of compensatory leave for time beyond the normal work week at a rate of 150% of regular pay for the first ten hours, and at a rate of 200% of regular pay thereafter.

**SECTION VI: SALARIES AND REMUNERATION**

**Rule 21: Salary Scale and Remuneration**

The Executive Director shall fix the remuneration of the staff in accordance with the general standards set out in Rule 14, the salary scale approved by the Council and the budget. The remuneration of the staff shall be in Canadian dollars.

**Rule 22: Adjustments and Increments**

In the annual budgeting process, the Council may, on its own initiative or on the recommendation of the Executive Director, approve an adjusted salary scale. Increments within the salary scale for a position may be awarded only on the basis of satisfactory annual performance, and no more than once a year.

**Rule 23: Performance Appraisal**

The Executive Director is responsible for ensuring that all staff receive annual performance appraisals.

**Rule 24: Promotions**

Subject to Rules 14 and 22, the Executive Director may authorize the promotion of staff on the basis of a significantly increased level of responsibility and annual performance appraisals.

**Rule 25: Hospitality and Representation**

- 25.1 The Executive Director, and professional staff members authorized by the Executive Director, may authorize other employees to engage in hospitality and representational activities within prescribed limitations.
- 25.2 The employees shall promptly submit fully documented claims for expenses incurred in the course of such activities. The annual total of such claims shall not exceed the current allotment for hospitality and representation in the annual budget of the Commission.

**SECTION VII: LEAVE**

**Rule 26: Vacation Leave**

- 26.1 Employees will earn vacation leave at the rate of 20 days per year of employment, accruing monthly.
- 26.2 Vacation leave is to be taken in the financial year in which it is earned. In exceptional circumstances and with the prior approval of the Executive Director, earned but unused vacation leave may be carried over from one year to another by staff. Vacation leave for home leave purposes may be accumulated in an amount not to exceed that allowed for two financial years.

**Rule 27: Scheduling of Leave**

- 27.1 The Executive Director will authorize vacation leave so as to minimize disruption of normal staff operations and the functioning of the Secretariat.
- 27.2 In authorizing leave, the Executive Director will take into account the personal circumstances, needs and preferences of the staff.
- 27.3 Vacation leave may be taken in one or more periods.

**Rule 28: Special Leave**

The Executive Director may approve paid special leave up to five days per financial year for purposes such as bereavement or emergency situations, and unpaid special leave at his or her discretion.

**Rule 29: Home Leave**

- 29.1 Home leave for the Executive Director and all professional staff will be granted once for each full term of appointment, provided the term is for at least 24 months and that more than half of the full term has been served.
- 29.2 The schedule for home leave for professional staff will be subject to the approval of the Executive Director.
- 29.3 Transportation expenses will be paid for the Executive Director, professional staff, and their spouses and dependents at rates not to exceed full fare economy class.
- 29.4 Travel time will be allowed but not in excess of the time required for direct air travel.

29.5 For the purpose of this Rule, "home" means the place within Canada, the United Mexican States or the United States of America where the incumbent was resident before being appointed, unless otherwise decided by the Executive Director in the case of professional staff or by the Council in the case of the Executive Director.

**Rule 30: Sick Leave**

30.1 Employees shall earn sick leave credits at the rate of 1 1/4 days per calendar month during the period of employment and shall be granted paid sick leave not exceeding their sick leave credits. Unused sick leave credits shall accumulate from year to year.

30.2 Staff shall submit medical certificates for any period of sick leave in excess of three consecutive working days.

**Rule 31: Maternity Leave**

The Executive Director shall approve maternity leave for every staff member who has completed six consecutive months of continuous employment in accordance with the following:

- (a) Every staff member who becomes pregnant shall notify the Executive Director at least four weeks before taking leave and at least four weeks prior to the expected date of the birth of her child and, subject to the provisions of this Rule, shall be granted paid leave of 12 weeks for a period beginning before the expected, or on or after the actual, date of delivery and ending not later than 12 weeks after the date of delivery.
- (b) The staff member can use earned vacation, compensatory or sick leave credits up to and beyond the date of delivery.

**Rule 32: Family Responsibility Leave**

The Executive Director shall approve unpaid family responsibility leave of up to six weeks for all staff who have completed at least six months of continuous employment.

**Rule 33: Paternity and Adoption Leave**

A staff member shall be granted three days of paid leave for a period beginning before, on or after the date of the birth of his child, or his or her adoption of a child.

**Rule 34: Holidays**

The Executive Director shall designate 11 days in a financial year as paid holidays.

**Rule 35: Benefits During Leave**

35.1 Paid leave shall not interrupt continuity of service for the purpose of calculating vacation leave and severance pay. Time spent on such leave will be counted for pay increment purposes. During such leave, the Commission and the staff member will continue to pay their respective shares of pension and benefit plans.

35.2 The Commission and the employee may continue their respective contributions to employee benefit plans as appropriate during periods of unpaid leave. Staff members may accrue other credits or benefits during periods



of unpaid leave at the discretion of the Executive Director and in the case of the Executive Director at the discretion of the Council.

## SECTION VIII: SOCIAL SECURITY

### **Rule 36: Medical and Hospital Expenses**

The Executive Director shall make arrangements for medical, dental and hospital insurance for all employees, their spouses and dependents. The Executive Director shall ensure that provision is made in the budget for the payment of the Commission's share of the costs of such insurance. Employees shall pay their share and any additional costs for extra benefits.

### **Rule 37: Retirement and Insurance Benefits**

The Executive Director shall make arrangements to ensure that eligible employees are covered by appropriate retirement savings, life insurance and long-term disability plans.

## SECTION IX: TRAVEL

### **Rule 38: Official Travel**

- 38.1 Official travel shall be undertaken only if authorized in advance by the Executive Director.
- 38.2 Payment for official travel expenses will be based on reasonable and documented expenditures for accommodation, meals, economy class airfares and related expenditures.

## SECTION X: SEPARATION FROM SERVICE

### **Rule 39: Resignation**

Employees should provide in writing at least one month's notice of their effective date of resignation. Notice of lesser length may be approved by the Executive Director in the case of staff, and by the Council in the case of the Executive Director.

### **Rule 40: Severance Pay**

- 40.1 Severance pay in the event of dismissal of staff members other than solely for cause shall not exceed 12 weeks pay and shall be based upon objective factors such as length of service.
- 40.2 Severance pay in the event of dismissal of staff members solely for cause shall be provided at the discretion of the Executive Director and in any event shall not exceed 12 weeks pay.

### **Rule 41: Dismissal**

- 41.1 The Executive Director may terminate the employment of a staff member at any time upon written notice solely for cause. In any other case, the Executive Director shall advise the Council not less than two weeks prior to providing the staff member with one month's notice in writing. The Council may decide by a two-thirds vote to reject any such notice of dismissal.

- 41.2 The Council may remove the Executive Director solely for cause.
- 41.3 Any Council decision under this Rule shall be made and held in confidence.

## SECTION XI: STAFF COMPLAINT PROCEDURES

### **Rule 42: Composition of Roster**

The Executive Director, with the approval of the Council, shall maintain a roster of arbitrators consisting of two nationals from each Party. Arbitrators shall be removed from the list at their own request or that of the Council. In such case, the Executive Director, with the approval of the Council, shall name a replacement

### **Rule 43: Notification and Response**

- 43.1 In the event of a complaint arising out of the interpretation, application or administration of these Rules or of the terms and conditions of employment of a staff member, or any alleged unjust or improper action against that staff member, such staff member may so notify the Executive Director in writing. Such notification shall contain full particulars of the circumstances giving rise to the complaint, including its nature and the Rules or terms and conditions of employment at issue. Such notification shall be made within 90 days of the circumstances described in the complaint.
- 43.2 On notification under Rule 43.1, the Executive Director, or his or her designee, shall meet with the complainant and make every effort to do so within five working days. At such meeting every effort shall be made to reach a satisfactory solution. If the complaint is not resolved, the Executive Director, or her or his designee, shall provide a written response within ten working days after the meeting. In any event, the Executive Director shall provide a written response upon request.
- 43.3 If the dispute is not resolved under Rule 43.2, the Executive Director and the complainant shall discuss the matter with the designees of the Council. Every effort shall be made to reach a satisfactory solution within 15 working days.
- 43.4 If the dispute is not resolved under Rule 43.3, the complainant may request arbitration in writing to the Executive Director within the next ten working days. If the Executive Director does not respond within the time periods in Rule 43.2, and the designees of the Council do not respond within the time period in Rule 43.3, the complainant may request arbitration in writing to the Executive Director within ten working days after the expiration of such periods.

### **Rule 44: Arbitration**

- 44.1 Upon a request referred to in Rule 43.4, an arbitrator shall promptly be selected from the roster by lot and in any event within 15 working days.
- 44.2 The rules of procedure of the arbitration shall be determined by the arbitrator. The arbitrator shall promptly schedule a hearing, at which the parties shall be given the opportunity to present evidence, including documents and witnesses to support their positions. In cases where there are no facts in dispute, the parties may agree to submit the case to the arbitrator on the basis of written submissions and argument, without the necessity of a hearing. On request, the Executive Director shall provide to the complainant all necessary and relevant information taking into account the privacy of others.
- 44.3 The arbitrator shall communicate the decision to the parties to the complaint, the Executive Director and any other individual whose actions are the subject of the complaint within 21 days from the last day of the hearing or, if no hearing is held, within 21 days after receipt of written submissions. The decision shall be in writing and

shall be final and binding upon the parties to the complaint.

44.4 The Commission shall bear the expenses of the arbitrator. Complainants shall bear the expenses of their own representation. Complainants shall be given reasonable time during working hours to prepare for and attend any hearing.

**Rule 45: Application of Agreement, Rules, Laws and Regulations**

The arbitrator shall resolve complaints by reference to the Agreement, these Rules and, to the extent they do not conflict with the Agreement or these Rules, laws and regulations applicable to international governmental organizations.

**SECTION XII: FINAL PROVISIONS**

**Rule 46: Relation to the Agreement**

In the event of any inconsistency between these Rules and the Agreement, the Agreement shall prevail to the extent of the inconsistency.

**Rule 47: Amendments**

The Executive Director may propose amendments to these Rules to the Council. Only the Council may amend these Rules.

**Rule 48: Authentic Texts**

The English, French, and Spanish texts of these Rules are equally authentic.

**NORTH AMERICAN AGREEMENT  
ON ENVIRONMENTAL COOPERATION**

**COMMISSION FOR ENVIRONMENTAL COOPERATION**

**FINANCIAL RULES**

**Rule 1: Scope**

The following Rules govern the financial administration of the Commission for Environmental Cooperation ("Commission"), established by the North American Agreement on Environmental Cooperation between the Government of Canada, the Government of the United Mexican States and the Government of the United States of America ("Agreement").

**Rule 2: Responsibility and Authority**

- 2.1 The Executive Director of the Secretariat of the Commission shall be responsible to the Council of the Commission and shall have authority in all financial matters of the Commission, including authority to receive monies, incur obligations and make payments on behalf of the Commission.
- 2.2 The Executive Director shall appoint a member of the staff as the financial officer of the Commission. The financial officer shall assist the Executive Director, at his or her direction, to carry out the responsibilities of the Executive Director set out in these Rules.
- 2.3 The Executive Director may, after notification to the Council, designate in writing the members of the staff who may receive monies, incur obligations and make payments on behalf of the Commission.

**Rule 3: Financial Year**

The financial year shall be the period from January 1 through December 31, both dates inclusive.

**Rule 4: Budget**

- 4.1 The Executive Director shall prepare and submit for the approval of the Council the annual program and budget of the Commission in accordance with Article 11(6) of the Agreement. All financial commitments shall be in accordance with the budget.
- 4.2 The Executive Director shall submit the proposed budget to the Parties at least 30 days before the regular annual session of the Council. The proposed budget shall cover income and expenditures for the next financial year, and shall be presented in Canadian dollars.
- 4.3 The proposed budget shall be accompanied by such information and explanations as the Parties may request or as the Executive Director may deem useful.
- 4.4 The budget shall be prepared in conjunction with the annual program of the Commission. The budget shall include provision for proposed cooperative activities and for the Secretariat to respond to contingencies.
- 4.5 Each year in regular session, the Council shall review and approve the budget for the next financial year.
- 4.6 Each Party shall contribute an equal share of the annual budget of the Commission, subject to the availability of

appropriated funds in accordance with the Party's legal procedures. No Party shall be obligated to pay more than any other Party in respect of an annual budget.

- 4.7 Each Party may make its contribution in its national currency to the Commission pursuant to a schedule of payments established by the Council. The annual amount of a Party's contribution in its national currency shall be fixed at the bank of Canada exchange rate in effect on December 15 of the previous year. The first payment shall be made no later than the first month of the financial year.
- 4.8 Each Party will inform the Executive Director by November 15 of the payment schedule for appropriated funds that a party intends to follow for the subsequent program year. The initial payment shall be made, at the latest, in January and shall not be less than 25%. The last payment shall be made, at the latest, in October and shall be no more than 25% of the total annual contribution.
- 4.9 The Executive Director shall provide to the Parties, on a quarterly basis, an interim financial report including an analysis of budgetary variances during the preceding quarter. If a significant budgetary variance arises, the Executive Director shall present a recommended revision to the budget for consideration by the Council.

**Rule 5: Funds Available to the Commission**

- 5.1 No later than 30 days after the Council has approved a budget or a revision to a budget, the Executive Director shall transmit to each Party such documents and information as may be required, with a request that the funds be approved and remitted in accordance with procedures established between the Secretariat and the respective Party.
- 5.2 The receipt of funds from a Party shall constitute authorization to the Executive Director to incur obligations and make payments for the purposes and up to the amounts authorized by the Council.
- 5.3 Funds shall remain available for three months (two months, starting in fiscal 2002) following the end of the financial year to discharge obligations incurred during the year to which the funds relate.
- 5.4 At the end of the period stated in Rule 5.3, any outstanding obligation incurred in the prior financial year shall be transferred as an obligation against the current financial year's budget. Any balance in appropriations shall be accounted for in accordance with the provisions of Rule 6.2.
- 5.5 Funds available to the Commission may be invested in government-insured or guaranteed bank deposits or other instruments, taking into account the cash flow needs of the Commission.
- 5.6 The Commission may receive funding or in-kind contributions in excess of the annual budget to support or enhance programs approved by the Council in the three-year program plan, within the human resources capacities of the Commission.

The Secretariat shall notify the Council of any plan to accept funding over C\$25,000 at least 15 working days prior to its acceptance. At a minimum, the notification to the Council will include the following information:

- (a) the amount;
- (b) the source; and
- (c) the intended use.

The Secretariat shall similarly notify the Council of any plan to accept an in-kind contribution with a monetary value greater than C\$40,000 provided by a contributor for a particular event, program, or administrative function of the Commission, at least 15 working days prior to its acceptance. At a minimum, the notification to the Council will include the following information:

- (a) the estimated value of the in-kind contribution;
- (b) the source; and
- (c) the intended use.

Any Party may obtain an extension of the 15-working day notification period to allow the necessary time to duly examine the nature and scope of the funding or in-kind contribution.

Any Party may decide to object to the Commission accepting the funding or in-kind contribution. Any such decision shall be conveyed to the Secretariat which will inform the proposed contributor that the contribution will not be accepted. If no opposition is expressed by the Parties, the Secretariat may accept the funding or in-kind contribution at the end of the notification period.

Funding of C\$25,000 or less and in-kind contributions with a monetary value of C\$40,000 or less, provided by a contributor for a particular event, program, or administrative function of the Commission, will be handled at the discretion of the Secretariat, on a case-by-case basis, in compliance with the scope and the objectives of the Agreement.

For the purpose of this article, "in-kind contribution" means any contribution in furtherance of the programs approved by the Council in the three-year program plan, other than direct financial support. Such in-kind contributions may be made in the form of resources, goods, or services, including personnel, equipment, facilities, or supplies.

#### **Rule 6: General Fund**

- 6.1 A General Fund shall be established for purposes of accounting for the expenditures of the Commission.
- 6.2 The following monies shall be credited to the General Fund:
  - (a) contributions received from the Parties;
  - (b) funds made available in accordance with Rule 5.4; and
  - (c) miscellaneous income, including income from interest.
- 6.3 The Executive Director shall maintain the funds of the Commission in accounts in the name of the Commission in a CDIC ("Canada Deposit Insurance Corporation") or similarly insured financial institution.

#### **Rule 7: Accounts**

- 7.1 The Executive Director shall establish procedures:
  - (a) to ensure effective and prudent financial administration; and
  - (b) to ensure that all payments are made on the basis of invoices or other supporting documents and that services or goods contracted for have been received.
- 7.2 The Executive Director shall maintain accounting records for each financial year in accordance with Generally Accepted Accounting Principles, and shall provide statements in respect of such records to the Parties quarterly.
- 7.3 The annual accounts and accounting records of the Commission shall be kept in Canadian dollars.

7.4 The Executive Director shall submit the annual accounts to the Parties and to the external auditors no later than 60 days after the end of each financial year, together with such other information as may be appropriate.

**Rule 8: External Audit**

8.1 The accounts of the Commission shall be audited annually by external auditors selected by the Council.

8.2 The auditors shall perform such audit as they deem necessary to determine that:

- (a) the financial statements are in accord with the books and records of the Commission;
- (b) the financial transactions reflected in the statements are in accordance with these Rules; and
- (c) the monies on deposit and on hand are vouched for by the Commission's depositories or by actual count.

8.3 The auditors shall prepare a report for the Council on the audit of the financial statements relating to the accounts for the financial year. The report shall include the auditors' conclusions on the accounting system, internal financial controls, the financial consequences of administrative practices, and any other subject relevant to the financial status of the Commission. The auditors shall provide their report to the Executive Director at the time of its submission to the Council.

8.4 The auditors shall draw to the attention of the Executive Director and the Council any transaction with respect to which they entertain doubt as to legality or propriety.

8.5 The auditors shall be the sole judges as to the acceptability in whole or in part of payments authorized by the Executive Director. They may carry out such detailed examination and verification of all financial records as they choose. The Executive Director and the staff of the Secretariat shall provide the auditors with the facilities the auditors may require in the performance of the audit.

**Rule 9: Additional Expenditures**

Before a proposal involving the additional expenditure of funds is approved by the Council at a special session, or a regular session subsequent to the session at which the budget was adopted, the Executive Director shall prepare and provide to the Council an estimate of the budget implications of implementing the proposal.

**Rule 10: Interpretation**

In the event of any inconsistency between these Rules and the Agreement, the Agreement shall prevail to the extent of the inconsistency. Any uncertainty or dispute as to the interpretation or applicability of any of these Rules shall be resolved by the Council.

**Rule 11: Amendment of Rules**

These Rules may be amended by the Council only.

**Rule 12: Authentic Texts**

The English, French, and Spanish texts of these Rules are equally authentic.



Annex H  
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**Administration and Funding Guidelines  
North American Fund for Environmental Cooperation (NAFEC)  
of the Commission for Environmental Cooperation (CEC)**

Revised Version Approved by the Council on 11 December 2002



**NORTH AMERICAN FUND FOR ENVIRONMENTAL COOPERATION (NAFEC)**

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## NORTH AMERICAN FUND FOR ENVIRONMENTAL COOPERATION (NAFEC)

### CEC mission:

The Commission for Environmental Cooperation (CEC) was created by the North American Agreement on Environmental Cooperation to enhance regional cooperation, prevent potential environmental and trade disputes and promote the effective enforcement of environmental law. The Agreement, signed by Canada, Mexico and the United States, complements the environmental provisions established in the North American Free Trade Agreement (NAFTA).

### 1. What is the NAFEC?

The CEC created the North American Fund for Environmental Cooperation (NAFEC) in 19954 as a means to fund community-based projects in Canada, Mexico and the United States that promote the goals and objectives of the CEC.

NAFEC seeks to support activities that are:

- Community-based;
- Small and project-based; and
- Cooperative partnerships.

Also projects that:

- Enhance the objectives of the CEC as presented in its Program Plan and Budget;
- Leverage additional support from other sources; and
- Strengthen and build the capacities of local peoples and institutions.

### 2. What projects can be funded?

The projects that can be funded are:

- 2.1 Those that meet the objectives of the North American Agreement on Environmental Cooperation (NAAEC), as outlined in Article 1 of the Agreement and as specified in section 6.1 (a), “What criteria will be used to assess proposals?”
- 2.2 Those that relate to the current CEC Program Plan and Budget and specifically to categories defined in the NAFEC Call for Proposals. These categories will be determined annually. Proposed categories will be presented to the Council for its approval as part of the CEC Program Plan and Budget development and approval process.

### 3. What will not be funded?

NAFEC will not support:

- 3.1 Activities that should be conducted by governments as required by law.
- 3.2 Overhead expenses (such as maintenance, light, heat) and administrative expenses (such as telephone, fax, photocopy) in excess of 15 percent of the total grant.
- 3.3 Regular activities of the organization such as annual meetings.

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4 Council Resolution 95-09 created the North American Environment Fund (NAEF) for the year 1996, but during Council Session 96-5, Council Representatives changed the name of the NAEF to the North American Fund for Environmental Cooperation (NAFEC).

#### **4. Who can apply?**

Applicants must reside in one of the three member countries.

##### **4.1 Nongovernmental organizations**

- a) Nongovernmental organizations (NGO) with not-for-profit status will be eligible for grants. "Nongovernmental organization" means any scientific, professional, business, non-profit, or public interest organization or association which is neither affiliated with, nor under the direction of, a government.
- b) Proposals from qualified non-governmental organizations, involving cooperation with otherwise unqualified organizations, could be considered for funding on a case-by-case basis.

Because NAFEC's resources are extremely limited, grants should be awarded in priority to those organizations with little financial support.

Parties to NAAEC are required to meet environmental obligations set forth therein on their own, thus NAFEC funds should not be used to assist Parties in complying with NAAEC requirements.

##### **4.2 Community-based organizations**

The Council Resolution 95-09, which established NAFEC, recognizes the importance of supporting programs that have "local" significance and impact and directed that funds be used to "directly engage the energy and imagination of the people of North America in achieving the goals of the NAAEC." With this guidance, NAFEC's resources will only go to support efforts at the grassroots level. The objective of empowering and building the capacity of local peoples and institutions will be used as a guiding principle in screening proposals.

#### **5. How will NAFEC be administered?**

The CEC Secretariat will administer NAFEC with an amount to be determined annually (as part of the CEC Program Plan and Budget), which will be allocated each year for grants.

The following factors are involved in the administration of NAFEC:

##### **5.1 Grant Distribution Process**

- a) Grants will be equitably distributed among the three countries.
- b) The grant ceiling will be C\$60,000.
- c) Grants will be paid out in installments to ensure that funded projects proceed in a realistic time frame (which will not generally exceed two years). Payments will be delayed or withheld if the conditions of the grant are not met. Grantees are required to submit to the NAFEC progress reports and financial statements that demonstrate how the funding is being used to generate environmental results. These reports should be submitted according to the Payment and Reporting Schedule (approximately every six months), which is part of the NAFEC Funding Agreement. Progress reports and financial statements will be made available to the Parties for information purposes upon request.
- d) Requests for multi-year grants will be accepted, but will be dependent on the availability of funds and will be subject to review after each year.
- e) Applicants may submit more than one application per year for different projects, but only one project per applicant is eligible for support per year.

## 5.2 NAFEC Management and Staff Structure

NAFEC management will consist of a Selection Committee, staff from the CEC Secretariat and, if needed, technical advisors.

The role of the Selection Committee is to approve or decline grant applications.

The Selection Committee will consist of six members, with two representatives from each country, to be appointed as follows:

- a) One representative from each country will be selected by the CEC Joint Public Advisory Committee (JPAC) from among its members, and one representative will be selected by each Party, from among their respective National Advisory Committee (NAC) or Governmental Advisory Committee (GAC).
- b) If it is not possible for one or more Parties to have representation from JPAC and/or the NAC or GAC, those Parties will appoint Selection Committee members from amongst their respective citizens.

All Selection Committee members will be appointed for two granting cycles.

To ensure the integrity and non-political character of NAFEC, Selection Committee members will be required to sign a declaration that they cannot represent the interests of any specific group. Selection Committee members must disclose all potential conflicts of interests and recuse themselves from the selection process in cases where a conflict exists.

The CEC Secretariat will fill NAFEC staff positions. NAFEC staff serve on the Selection Committee in an ex-officio capacity.

NAFEC staff will work with the CEC Secretariat staff to ensure that the goals of the CEC are fairly interpreted and represented when soliciting proposals and awarding grants.

The Selection Committee will report to the Council once a year. This report will be submitted following approval of grants and will include comments on the NAFEC process and recommendations for improvement.

The CEC Secretariat will provide the Council with a report of NAFEC activities in the context of the CEC Annual Report. This report will include a description of grants made during the year, as well as goals and results from previous grants and their contribution to meeting overall objectives outlined in the CEC Program Plan and Budget.

## 5.3 Request for Proposals and Review Process

- a) NAFEC staff will release a Request for Proposals (RFP) that outlines eligible projects and applicants, provides information on how to apply, a decision timetable and an outline for a proposal. This will be sent to the Parties; the CEC; JPAC; stakeholders; and will be made publicly available.
- b) NAFEC staff will screen proposals and prepare a recommendation for the Selection Committee's final decision. For each proposal, NAFEC staff will present its recommendation on whether to approve or decline a proposal. This proposal review process will be accomplished via e-mail, fax or in person.

NAFEC staff will enlist the assistance of CEC Secretariat staff, government agencies and outside advisors as required to evaluate the technical and legal issues and/or relevance to CEC program areas arising from proposals or to clarify questions or concerns raised by Selection Committee members.

Proposals will be rated on how well they relate to the CEC's objectives and the criteria (as specified in Section 6, "What criteria will be used to assess proposals?") to ensure a balanced and fair review process across the three countries.

- c) The Selection Committee will review the NAFEC staff's screening reports, and will approve/decline grant applications.

On completion of this stage, the grants will be publicly announced. Such announcements will include: the name of the organization and its location, the name of the project, the amount of the grant and the executive summary of the project. Information on how to contact the organization will be made public with the permission of the project holder. Full details of specific projects will be provided to Parties upon request.

#### **5.4 Application Process and Deadlines**

There will be one grant cycle per year, allowing sufficient time for review and follow-up and evaluation. In general, a Call for Proposals will be released early in the year. The deadline for proposal submission will be set approximately three months after the release of the Call for Proposals. Grants will be announced within three months of the submission deadline.

#### **5.5 Evaluation of NAFEC**

A performance evaluation of NAFEC will be conducted at appropriate intervals as determined by the Council.

The annual external audit of the CEC will also include a financial statement on NAFEC.

#### **5.6 Official Languages**

- a) The official languages of NAFEC shall be English, French and Spanish.
- b) The Selection Committee may establish rules and procedures regarding translation of grant proposals and interpretation during Selection Committee meetings.

#### **5.7 Revision of the NAFEC Administration and Funding Guidelines**

Any modification brought to the present Guidelines must be approved by the Council prior to its taking effect.

### **6. What criteria will be used to assess proposals?**

The following criteria will be used by the Selection Committee and NAFEC staff to help determine the eligibility of proposals.

#### **6.1 NAAEC Objectives**

- a) The substance of a proposal should be consistent with the spirit and the objectives of Article 1 of the NAAEC, which includes:
- foster the protection and improvement of the environment in the territories of the Parties for the well-being of present and future generations;
  - promote sustainable development based on cooperation and mutually supportive environmental and economic policies;
  - increase cooperation between the Parties to better conserve, protect, and enhance the environment including wild flora and fauna;
  - support the environmental goals and objectives of the NAFTA;
  - avoid creating trade distortions or new trade barriers;
  - strengthen cooperation on the development and improvement of environmental laws, regulations, procedures, policies and practices;
  - enhance compliance with, and enforcement of, environmental laws and regulations;
  - promote transparency and public participation in the development of environmental laws, regulations

- and policies;
  - promote economically efficient and effective environmental measures; and
  - promote pollution prevention policies and practices.
- b) The substance of a proposal should be consistent with the current CEC Program Plan and specifically with the categories defined in the current NAFEC Call for Proposals.

## **6.2 Administration**

Proposals should demonstrate that:

- a) Short- and long-term deliverables are clear and achievable;
- b) Administrative costs and overhead are not excessive and are justified; and
- c) The grantee has the institutional and organizational structure necessary to ensure the project's success.

## **6.3 Community Support**

- a) The community concerned actively participates in the design and implementation of the project;
- b) The project will strengthen and build capacity of local peoples and institutions; and
- c) Evidence of collaboration and coordination with other organizations and efforts is provided. The applicant will be asked to identify the groups who are working in concert with the applicant.

## **6.4 Dissemination**

- a) Applicant has a clear plan for sharing the results of their work, as well as the process used to achieve the results, with other NGOs and the public.

## **6.5 Financial**

- a) Future funding needs are well-defined and considered; and
- b) Applications for which NAFEC funding is leveraged by cash or in-kind support from other sources are encouraged.

## **6.6 Evaluation**

- a) The applicant has well developed plans for evaluating both impact and process and reporting on environmental results derived from the project; and
- b) Resources for conducting the evaluation are included in the project budget.

## **6.7 Organizational Credibility/Stability**

- a) The applicant shows a clear leadership/management structure; and
- b) The applicant demonstrates ability to manage resources.