

**Center for International Environmental Law • Earthjustice • World Wildlife Fund-US
Natural Resources Defense Council • Pacific Environment & Resources Center
Defenders of Wildlife • Friends of the Earth**

30 April 2002

**Mr. Jon Plaut
Chair for 2002
Joint Public Advisory Committee**

Dear Mr. Plaut;

Thank you and all of JPAC for the consistent attention you have devoted to the Article 14-15 citizen submission process under the North American Agreement on Environmental Cooperation (NAAEC). Your efforts to ensure an independent review of questions of environmental enforcement raised by citizens of North America are greatly appreciated.

As you well know, in a series of recent decisions on pending citizen submissions the three NAFTA Parties have moved yet again to constrain the Article 14-15 process and undermine its effectiveness. By explicitly limiting the scope of several pending factual records and by requiring the Secretariat to submit a workplan to the Parties, the Council has sought to accomplish the type of restrictions on the citizen submission process that provoked a public outcry two years ago. These restrictions undermine the independence of the Secretariat and, as a result, undermine the effectiveness and credibility of the Commission for Environmental Cooperation.

While requiring a workplan, in and of itself, seems innocuous, taken against the backdrop of the Parties' efforts to confine the citizen submission process, it is more ominous. It would be preferable, in our view, to allow the Secretariat to conduct its inquiry without having to lay out its plan in advance. While we assume good faith on the part of our governments, requiring a workplan could be used to develop strategies for frustrating the Secretariat's efforts. If the rationale for requiring workplans is that the government in question can best prepare to assist its preparation, then all that is needed are requests from the Secretariat as to the information or people that should be made available.

Furthermore, if a workplan is made available to one or more Parties, it must also be made available to the public at the same time. We are concerned, however, that doing so may subject the Secretariat to unwarranted pressures as it conducts its work. The Article 14-15 process will be effective only to the extent that the Secretariat is truly independent.

While your recent request for comment is limited to the workplan issue, we must nevertheless flag as critically important the restrictions on the scope of the factual records in the Migratory Bird, BC Mining, and BC Logging submissions. In our view, these restrictions violate the letter and spirit of the NAAEC. They certainly represent a significant departure from past practice and merit JPAC's close scrutiny.

Thank you again for the opportunity to comment and for your diligence in guarding the Article 14-15 process from further erosion. We look forward to a full airing of both the workplan and scope issues at the June session of the Commission for Environmental Cooperation.

Sincerely,

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Director, International Programs
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