



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OFFICE OF
INTERNATIONAL AFFAIRS

December 20, 2002

Mr. Jon Plaut
JPAC Chair for 2002
Commission for Environmental Cooperation
393, rue St-Jacques ouest, bureau 200
Montréal (Québec) H2Y 1N9

RE: Response to JPAC Advice to Council 02-11 (The CEC Program Plan for 2003-05)

Dear Mr. Plaut:

Thank you for JPAC Advice 02-11 on the 2003-05 Program Plan. Your advice has been considered in great depth in the Council's decisions for finalizing the program plan. On behalf of the Council, the Alternate Representatives offer the following response to your advice.

Public Participation

We agree with JPAC's recommendations regarding public participation in all of the CEC projects. We continue to work with the Secretariat to ensure that public participation efforts are better integrated within each project.

Indigenous Peoples

Progress has been made by the CEC in engaging indigenous peoples in its work. The Secretariat, in particular, has been sensitive to this need and has made significant efforts over the years in attempting to engage indigenous peoples in the CEC's work. We recognize, however, that there is still room for improvement, and look forward to working together with the Secretariat and the JPAC to explore additional measures that could be taken to engage indigenous people in the work of the CEC.

Strategic Planning

The CEC Secretariat presented at the Alternate Representatives meeting in December its plans to proceed on strategic planning. It is expected that concerns we have all shared on issues such as project timetables, outcomes, communication strategies (including format of the program plan), budget (including leveraging funds), and program evaluation will be addressed by this new strategic plan.

Environment, Trade and Economy

We appreciate your interest in the ongoing work stemming from the Article 13 report on the opportunities and challenges associated with North America's evolving electricity market. There are a number of activities in the Program Plan which are intended in follow up to that work. As you noted, one of these is Activity 2 of Action 4 in project 1.2.1, the technical meeting on approaches to estimating environmental benefits of renewable energy and energy efficiency. This issue is very relevant to the Article 13 work. In

addition, other activities include: Activity 3 of Action 4 in project 1.2.1, identifying infrastructure needs to support renewable certificate trade schemes; Action 1 (including Activities 1 and 2) under project 3.1.1, establishing a strategic direction for cooperative air equality programs in North America; and Action 3 (including Activities 1 through 4) under project 3.1.1, relating to North American air emissions and greenhouse gas inventories. Given this context, the technical meeting which you raised is an appropriate component of the follow-up plan to the electricity report.

Conservation of Biodiversity

We appreciate your concern and interest in having indigenous involvement further included in the biodiversity program area. It should be noted that the biodiversity program is in the process of transition, and in future years will be guided by a "Cooperation Strategy for the Conservation of Biodiversity in North America", which is to be presented for approval by the Council at their June 2003 meeting. Coordination with indigenous and local communities is mentioned prominently throughout the current draft strategy. This means that, although it is not mentioned specifically in the current working plan, work with these communities is integrated in the developing and continuing work of the biodiversity program.

The JPAC will have the opportunity to review the Strategic Plan during the public review period, to occur in early 2003. The Biodiversity Conservation Working Group (BCWG) is eager to receive JPAC advice and fully use its comments and input in the development of the Strategy and future activities.

The Council thanks JPAC for its comments regarding NABIN. This comment will be forwarded to the Biodiversity Conservation Working Group for consideration at their next meeting. In addition, we strongly encourage the Secretariat to take a closer look at NABIN to determine next steps.

Pollutants and Health Program

We are aware of your past recommendations that a NARAP be developed for lead. As you know, there is a process, through the Substance Selection Task Force (SSTF), where substances are considered, and recommendations are made to the SMOC working group for the development of new NARAPs. As mentioned in Council's Response to Advice 02-08, the SSTF is currently preparing a discussion document on lead for public consultation. It is anticipated that this document will include examples of activities that the three countries might take on lead, whether through a NARAP or other formal trilateral activity(ies). SMOC anticipates, and will encourage, vigorous public dialogue and input on this document. It is anticipated that the document will be available this fall for public review. When the SSTF finalizes its decision on lead, it will be transmitted to the SMOC Working Group. We are eager to receive the recommendation of the SMOC Working Group. We will make a decision once this recommendation has been transmitted to the Council.

In regard to your advice about the NARAPs, as you know, we are still in the early stages of the monitoring and assessment NARAP, as it was only approved in June 2002. The next phase for this NARAP is to establish a steering committee to develop an implementation plan. We agree with the JPAC that there will be a need, over time, to look at how to implement an update of the NARAPs through the Monitoring and Assessment NARAP.

Regarding the *Taking Stock document*, while the Council appreciates JPAC's intent in proposing that the

Secretariat seek partners to help fund printing of the *Taking Stock* document, it seems that this could raise a number of potential challenges. *Taking Stock* is often referred to as the CEC's "flagship" publication. If other organizations joined in funding it, this could affect the CEC's "ownership" of the document, and could complicate decisions on content and layout. Additionally, given the technical nature of the data used in *Taking Stock*, the process of technical editing to ensure accurate content, as well as translation, is quite in-depth. We greatly benefit from the depth of experience that has been built within the CEC, and it could raise quality control issues to hand such functions over to others. Finally, it could also be quite difficult to find a partner organization which is interested in funding the production of a publication. However, the Council recognizes that within the PRTR project there are undoubtedly opportunities to work with other institutions, for example, on improving access to, use, analysis and understanding of PRTR data. These certainly could be further explored.

It may also be helpful to note that in the proposed budget for 2003, the amount of printing costs allocated for *Taking Stock* appears large due to the fact that the Secretariat anticipates publishing two reports within approximately one year (one in April 2003 and the second near the end of the year or in early 2004). This means that the bulk of the printing and production costs for both reports fall into the same budget year. This is an exceptional situation, which will be gradually resolved as the publication cycle is shortened. The Secretariat is making a concerted effort to publish the *Taking Stock* report more rapidly, and has been making progress in this regard. The Secretariat is also implementing a number of streamlining measures in the production, layout, and technical editing of the document, which will reduce both the time and the costs.

Law and Policy

Like the JPAC, the Parties are also interested in holding an EWG meeting in conjunction with the June Council meeting. We are supportive of the need to highlight the Enforcement Working Group's work and look forward to developing an agenda for this meeting.

The Council welcomes receipt of JPAC's views on the environmental management systems project. We discussed JPAC's concerns during the October 24-25th Enforcement Working Group meeting in Montreal where Gustavo Alanís-Ortega participated on behalf of JPAC. The Council has decided further work in pollution prevention and environmental management systems is a sufficient priority to be included in the Program Plan. The Parties agreed that further work regarding implementation of the June 2000 guidance document, "Improving Environmental Performance and Compliance: 10 Elements of Effective Environmental Management Systems," rested with each Party, and not with the CEC. However, the Parties are open to additional work in the EMS area where the CEC can add value.

The scheduled 2003 workshop on small and medium-size businesses' hands-on experience in implementing environmental management systems (EMSs) provides an opportunity to build cross-fertilizing relationships between the Pollutants and Health and Law and Policy program areas. Faced with reduced resources, public and private interests (particularly small businesses) need to effectively use a range of new tools and approaches to achieve improved performance results. Continuing work on EMSs and pollution prevention, in the unique CEC trilateral forum, can make a difference in reducing transborder sources of pollution and improving environmental performance among North American businesses.

In regard to your advice 02-10 on freshwater issues, we have responded to this advice in a separate letter.

NAFEC

We appreciate your support for the North American Fund for Environment Cooperation (NAFEC) as a vehicle for local, community-based projects to complement and inform the CEC's program. The NAFEC will continue to have annual themes for grants. We will seriously consider your comment in our deliberations for theme topic for 2004, which will be decided later in 2003.

Tenth Year Anniversary of NAFTA

As mentioned in our response to Advice 02-09, we welcome JPAC's interest in the retrospective of NAFTA and NAAEC. This is an important exercise and we look forward to discussion on this issue once a preliminary process has been developed for carrying out this endeavor. In fact, we are expecting a proposal in the very near future from the Secretariat which will help us begin our discussions.

Specific Obligations

The Council has responded to points on the Trade and Environment Ministers meeting (Article 10(6) of NAAEC) and the clarification of the scope of factual records (Articles 14 and 15 of NAAEC), in our response to Advice 02-09.

The Council shares JPAC's interest in concluding the TEIA negotiations. The negotiators last conferred in June 2002 to continue discussions on how the agreement should address federalism issues, which continue to be among the most significant concerns of the Parties. We will continue to keep the JPAC and the public informed of significant new developments.

As always, we appreciate the advice of JPAC on the 2003-05 Program Plan, as well as other advice provided by the JPAC. We look forward to further collaboration with you as the work programme for 2003 is implemented.

Sincerely,



Judith E. Ayres

Alternate Representative for the United States
Assistant Administrator

cc: Norine Smith
Olga Ojeda Cárdenas
Vic Shantora, CEC Acting Executive Director
JPAC Members