

1998 REGULAR SESSION OF THE COUNCIL

Thursday, 25 June and Friday 26 June 1998
Mérida, Mexico

The Council held its Fifth Regular Session on 25 and 26 June 1998 in Mérida, Yucatán, Mexico. Secretary Julia Carabias (Mexico) chaired the meeting. Minister Christine Stewart and Administrator Carol Browner represented Canada and the United States respectively. Janine Ferretti, Interim Executive Director represented the Secretariat and Marc Paquin acted as Council Secretary. The list of delegates is included as Annex A.

Thursday, 25 June 1998

Item 1 Welcoming remarks by the Governor of the State of Yucatán and opening remarks by the Interim Executive Director, the Chair of JPAC, the Independent Review Committee and the Council

The session was formally opened by the Governor of the State of Yucatán following his welcoming remarks. The Interim Executive Director, the Chair of JPAC, the members of the Independent Review Committee and the Council members then made their opening remarks.

Item 2 Opening of the in-camera session and adoption of the agenda

The Chair opened the in-camera session and the agenda was approved as proposed (Annex B).

Item 3 Report by the Independent Review Committee under Article 10(1)(b) of the NAAEC, in the presence of JPAC

The Council agreed to invite JPAC to participate in the discussions under this item. Messrs. Peter Berle, Jorge Bustamante and Jacques Gérin participated on behalf of JPAC. The Independent Review Committee (IRC), which was created pursuant to Council Resolution 97-06 presented to the Council the main recommendations contained in its report entitled "Four-Year Review of the North American Agreement on Environmental Cooperation".

Further to this presentation and the ensuing discussion, the Council stated that it considered the IRC's report to be of outstanding value and indicated that many of the recommendations of the IRC were considered in developing the Council's draft "Agenda for Shared Action".

Additionally, the Council requested input from the JPAC and the IRC on the draft "Agenda for Shared Action" before the end of its session and adapted the agenda for the session accordingly.

Item 4 Setting strategic direction and priorities for the CEC work program

The Council organized its agenda in order to accommodate JPAC representatives to participate in the discussion of the proposed "Shared Agenda for Action". Two representatives from each of the

National Advisory Committees were also invited to attend that portion of the in-camera session as observers.

The JPAC and the Independent Review Committee were invited to present their comments on the document and generally expressed their support, viewing this document as a first step towards defining the future direction of the CEC. JPAC and the IRC expressed concern over a number of points and ministers agreed that these could be addressed most expeditiously through minor redrafts.

The Council agreed to prepare a new version of the document reflecting the suggestions and comments provided by the two groups, further to which it approved the final document and agreed to release it to the public as an annex to the Communiqué of the session.

The Council approved Resolution 98-09 relating to the development and implementation of a Rolling Three-Year Plan setting out the programmatic activities of the CEC (Annex C)

Item 5 Decisions and recommendations arising from North American cooperation

Item 5.1 Environment, Economy and Trade Program

The Council approved the 1998 Environment, Economy and Trade Program to be included in the Final 1998 Annual Program and Budget.

Item 5.2 Transboundary Environmental Impact Assessment (TEIA)

The Council took note of the negotiators' current proposal to move the TEIA negotiations forward and supported the approach. The Council thanked all those involved in that process for their commitment to successfully complete these discussions.

Item 5.3 Greenhouse Gas Emissions Trading

The Council agreed that the CEC work with the public and private sectors to develop opportunities for investment in North America for the Clean Development Mechanism.

Item 5.4 Articles 14 submissions

The Secretariat informed the Council of the creation of a unit within the Secretariat to solely manage issues related to Articles 14 and 15 and briefed the Council on progress in the review of pending submissions.

Item 5.5 Sound Management of Chemicals (SMOC)

The Council adopted Resolution 98-13 (Annex D) directing the 1996 surplus funds in support of the capacity building component of the SMOC initiative. The Council also requested the Alternate Representatives to prepare a letter for its signature to leverage additional funding from other organizations.

Item 5.6 Environmental management systems and compliance

The Secretariat presented the CEC Enforcement Working Group's "Report to the Council on Results and Recommendations pursuant to Council Resolution 97-05 by the EWG (April 1998)". The Council discussed the report and agreed to release it to the public, and requested that JPAC provide feedback to Council prior to the Council's determination of the future course of this initiative.

Item 5.7 North American Cooperation for Environmental Emergencies

The Council approved Resolution 98-12 (Annex E).

Item 5.8 Article 13 reports

The Secretariat updated the Council on progress on the Article 13 San Pedro Initiative.

Item 6 Discussion on JPAC guidance and advice

The Council prepared and circulated to JPAC a proposed list of JPAC activities, with a view to discussing the list during the meeting with JPAC (refer to item 8 below).

Item 7 Public Meeting

The Council informed the public on the early results of its in-camera session. The Council was in turn briefed on the results of the workshop. The updates focused on issues related to pollutants and health; biodiversity and ecosystem; capacity building, law and enforcement cooperation; and environment, economy and trade. The final written workshop report will be provided to the Council by JPAC and will include detailed results and recommendations.

The Council then heard a number of presentations from the public on a variety of themes and provided its response on a number of issues prior to thanking the public and JPAC for their contribution.

Friday, 26 June 1998**Item 8 Council meets with JPAC**

JPAC informed the Council of the results of the public workshop and expressed the opinion that public participation should once again be based on public consultations and workshops. The Council requested JPAC to propose a strategy to maximize benefits from the public portion of the regular session of the Council. JPAC further informed the Council of its efforts to better involve remote communities and indigenous people, an issue that will be discussed during the next JPAC meeting. Council endorsed this effort.

JPAC expressed its support for the Council's proposed "Agenda for Shared Action" and stated that they were pleased with the convergence of views, particularly in relation to the priorities identified for CEC's Annual Program and Budget and Rolling Three-Year Plan. JPAC also expressed satisfaction with the strengthened and closer working relationship that was clearly established with the Council and the Secretariat and the more proactive role which it had been requested to play vis-à-vis the Council.

On the Article 13 San Pedro Initiative, JPAC expressed the view that this was a clear example of an issue that cannot be carried out successfully by a single Party and therefore supported the Secretariat's initiative on the San Pedro River Basin. The JPAC complimented the content of the draft expert study and expressed satisfaction over the active participation from the public in the process.

On Articles 14 and 15, JPAC expressed satisfaction over the fact that the Council was finalizing the proposed revised version of the Guidelines but voiced its concern that the 60-day period allotted for public consultation was not sufficiently long. JPAC reminded the Council of the importance of the Guidelines for NGOs and of the need to ensure transparency throughout the process, further to which the Council agreed to extend the public review period to 90 days.

JPAC expressed its satisfaction with the Council's decision to hold three joint sessions with the JPAC per year (one at the ministerial level and two at the Alternate Representatives level) and mentioned that appointment of JPAC representatives should be considered a priority by the Parties.

On the process for the selection of the next Executive Director, JPAC wished to stress that it considered this to be of the utmost importance and wished to recognize the competence of the current Interim Executive Director. The Council took the opportunity to inform JPAC that a decision had been reached concerning the mechanism to select the next Executive Director and explained that the issue of balance of nationalities within the NAFTA system had been solved by making each of the Secretariats independent from each other. The Council indicated its preference for three-year mandates for the position of Executive Director to ensure a swifter rotation of nationalities.

As a first step in the selection process, a professional search firm will create a list of qualified Canadian and US candidates. The Council will then select the next Executive Director from the list of qualified candidates. Furthermore, the Council agreed that the senior management positions should be associated with functions rather than nationalities. It was also agreed that the Executive Director provide to the Council a proposal regarding the personnel structure of the Secretariat.

The Council instructed the Secretariat to look into ways to better ensure follow-up of proposals and presentations from the public, and then report to the Council.

Finally, the Council thanked JPAC for its dedication, commitment and participation as volunteers for the CEC.

Item 9 CEC procedures

Item 9.1 Discussion of Articles 14 and 15

Subject to agreement on technical drafting corrections, the Council approved the draft revisions to the Guidelines. Once translated, the final draft document will be released for public comment, through JPAC

The Council further agreed to finalize the Part V model rules within the same timeframe as for the completion of the Article 14 guidelines.

Item 9.2 Administrative Matters

The Council approved Resolution 98-11 establishing the level of funding for 1998 at US\$ 3 million per country for a total of \$9 million (Annex F).

Item 10 Approval of session communiqué

The Council approved the session communiqué and the accompanying annex, the "Shared Agenda for Action" (Annex G).

Item 11 1999 Regular Session of the Council

Canada will host the 1999 regular session of the Council.

Item 12 Other business

NAFTA Environmental Effects: The Council agreed to release the Framework and three sector studies and approved the cover letter with which they are to be released.

Item 13 Concluding remarks

The Council members made concluding remarks further to which the Chair closed the session.

The session ended at 13:15.

Prepared by Cristóbal Vignal
Global Strategies and Program Liaison Coordinator

**1998 Regular Session of the Council
June 24-26, 1998, Mérida, Yucatán**

CANADIAN DELEGATION

Council Member

Christine Stewart, Minister of the Environment

Alternate Representative

Avrim Lazar, Assistant Deputy Minister, Policy and Communication, Environment Canada

Bowcott, Andy, Environment Canada
Cerutti Rita, Environment Canada
Côté, Louise, Department of Foreign Affairs
Couture, Jean, Ministère de l'Environnement et de la Faune du Québec
Hillman, Kirsten, Department of Foreign Affairs and International Trade
Hoskin, Wanda, Natural Resources Canada
Lanthier, Jacline, Environment Canada
Lauriault, Louise, Environment Canada
Nichols, Jim, Alberta Environmental Protection
Stuckless, Carol Ann, Canadian Embassy - Mexico City
Wall, Jim, Environment Canada
Wilkinson, Cathy, Environment Canada

MEXICAN DELEGATION

Council Member

Julia Carabias Lillo, Secretary of Environment, Natural Resources and Fisheries (SEMARNAP)

Alternate Representative

José Luis Samaniego Leyva, Coordinador de Asuntos Internacionales, SEMARNAP

Aguilar, Mario, SEMARNAP

Azuela, Antonio, PROFEPA

Cortinas, Cristina, Instituto Nacional de Ecología

Guzmán Sandoval, Hugo

Huacuja, Mario

Márquez Solís, Héctor, Representante de SECOFI

Oláiz, Gustavo, Secretaría de Salud

Palomar Vereá, María, SEMARNAP

Provencio, Enrique, Instituto Nacional de Ecología

Rico Ferrat, Carlos, Secretaría de Relaciones Exteriores

Santiago, Hortensia

Tudela, Fernando, SEMARNAP

UNITED STATES DELEGATION

Council Member

Carol M. Browner, Administrator, Environmental Protection Agency

Alternate Representative

William W. Nitze, Assistant Administrator, Environmental Protection Agency

Anderson, Laura, Office of the U.S. Trade Representative
Berman, David, EPA
Freund, James F., Department of State
Frigerio, Lorry, EPA
Haverkamp, Jennifer, Office of the U.S. Trade Representative
Lieberman, Susan, Department of Interior
Rowley, Anne, EPA
Smith, Russell, Department of Justice
Wilson, Serena L., EPA

1998 REGULAR SESSION OF THE COUNCIL

Thursday 25 June and Friday 26 June 1998
Mérida, Mexico

Provisional agenda

Chair: Secretary Julia Carabias Lillo (Mexico)

Thursday, 25 June 1998

9:00 AM - 10:00 AM Official opening of the session (with registered participants present)

Item 1 Welcoming remarks by the Governor of the State of Yucatán (5 min.) and opening remarks by the Interim Executive Director (5 min.), the Chair of JPAC (5 min.), the Independent Review Committee (5 min.), and the Council (Minister Stewart, Administrator. Browner and Secretary Carabias).

10:00 AM - 10:15 AM Break

10:15 AM - 1:00 PM In-camera

Item 2 Opening of the in-camera session and adoption of the agenda (5 min.)

Item 3 Report by the Independent Review Committee under Article 10(1)(b) in the presence of the JPAC members (30 min.)

Item 4 Setting strategic direction and priorities for the CEC work program (2 hr.10 min.)

1:00 PM - 2:00 PM Working lunch

2:00 PM - 4:30 PM In-camera

Item 5 Decisions and recommendations arising from North American Cooperation (1hr)

Item 6 Discussion on JPAC guidance and advice (1 hr.)

4:30 PM - 5:00 PM Break

5:00 PM - 7:00 PM Public meeting

Item 7 Public meeting (2 hr.)

Friday, 26 June 1998

9:00 AM - 10:30 AM In-camera with JPAC

Item 8 Council meets with JPAC (2 hr.)

10:30 AM - 1:00 PM In-camera

Item 9 CEC procedures (1.5 hr.)

Item 9.1 Discussion of Articles 14 and 15

Item 9.2 Administrative Matters

Item 10 Approval of session communiqué (30 min.)

Item 11 1999 regular session of the Council (10 min.)

Item 12 Other business (15 min.)

Item 13 Concluding remarks (15 min.)

1:00 PM - 1:30 PM Break

1:30 PM Press conference

1998 REGULAR SESSION OF COUNCIL

Annotations to the provisional agenda

OFFICIAL OPENING OF THE SESSION WITH REGISTERED PARTICIPANTS PRESENT

Item 1 Welcoming remarks by the Governor of the State of Yucatan and opening remarks by Interim executive Director , the Chair of JPAC, the Independent Review Committee and the Council

Under this item, it is proposed that the Governor of the State of Yucatan call the meeting to order and welcome the CEC and the public to Mérida. Then, it is proposed that the Interim Executive Director, the Chair of JPAC, members of the Independent Review Committee, and members of the Council make opening remarks.

It is also proposed that the Council take this opportunity to stress the importance of the public workshop in the context of its regular session and share its expectations with regard to the public meeting that will take place at the end of the day.

DOCUMENTS:

- | | |
|--|------------------------|
| a) Provisional program for the session | 98-00/PLAN/02/Rev.8 |
| b) Provisional program of activities opened to all registered participants | 98-00/PLAN/04/Rev.4 |
| c) Provisional agenda | C/98-00/AGEN/01/Rev.10 |
| d) Annotations to the provisional agenda | C/98-00/AGEN/02/Rev.10 |

IN-CAMERA SESSION

Item 2 Opening of the in-camera session and adoption of the agenda (5 min.)

In accordance with Council Rules of Procedure (R. 9.6) the Council shall adopt the agenda for the session at the beginning of the session based on the provisional agenda. The Council is therefore expected to adopt the agenda.

DOCUMENTS:

- | | |
|--|-----------------------|
| a) Provisional agenda | C/98-00/AGEN/01/Rev.9 |
| b) Annotations to the provisional agenda | C/98-00/AGEN/02/Rev.9 |

Item 3 Report by the Independent Review Committee under Article 10(1)(b) in the presence of the JPAC members (30 min.)

Under this item, it is proposed that the Independent Review Committee (IRC) present to the Council the results of the IRC's review of the operation and effectiveness of the NAAEC, in accordance with Article 10(1)(b) of the NAAEC and Council Resolution 97-06.

DOCUMENTS:

- | | |
|---|----------------------|
| a) Council Resolution 97-06 | C/97-00/RES/06/Rev.5 |
| b) Final Report of the Independent Review Committee | |

Item 4 Setting strategic direction and priorities for the CEC work program (2 hrs 10 min.)

Under this item, it is proposed that the Council discuss the future direction of the CEC in light of the report prepared by the Independent Review Committee. More specifically, the Council may wish to discuss priorities to be addressed by the CEC, including trade and environment issues.

DOCUMENTS:

- | | |
|--|-----------------|
| a) Triennial Strategic Framework (to be distributed on 24 June 1998) | C/98-00/DISC/01 |
|--|-----------------|

Item 5 Decisions and recommendations arising from North American Cooperation (1 hr)

Under this item, it is proposed that the Council make decisions and recommendations arising from North American Cooperation in light of the relevant updates to be provided by the Secretariat on the following subjects.

Item 5.1 Environment, Economy and Trade Program

DOCUMENTS:

- a) Secretariat Note C/98-00/BACK/01/Rev.1
- b) Environment, Economy and Trade, 1998 Annual Program and Budget
- c) Communiqué of the Special Session of Council held 24 October 1997

Item 5.2 Transboundary Environmental Impact Assessment

DOCUMENTS:

- a) Secretariat Note C/98-00/BACK/04/Rev.1
- b) Negotiators' Note

Item 5.3 Greenhouse Gas Emissions Trading

DOCUMENTS:

- a) Secretariat Note C/98-00/BACK/05/Rev.1
- b) Phase II Emissions Trading: Capacities for Trading, May 1998 C/98-00/RPT/02

Item 5.4 Article 14 Submissions

DOCUMENTS:

- a) Secretariat Note C/98-00/BACK/07/Rev.1

TIME PERMITTING, THE SECRETARIAT WILL UPDATE THE COUNCIL ON THE FOLLOWING:

Item 5.5 Sound Management of Chemicals (SMOC)

DOCUMENTS:

- a) Secretariat Note C/98-00/BACK/02/Rev.1
- b) Process for identifying candidate substances for regional action under the Sound Management of Chemicals initiative. Approved October, 1997.
- c) Overview and update of the Sound Management of Chemical initiative under the NAAEC, Council Resolution #95-5 (updated March 1998).
- d) Brochure on the Sound Management of Chemicals initiative highlighting the process for identifying candidate substances under the Sound Management of Chemicals initiative.
- e) Memo date 4 June 1998 to Alternates from John Buccini, the Working Group chair, on the program update and outcome of the 6th regular meeting of the Working Group and Terms of Reference for the Substance Selection Task Force.
- f) Nomination dossier from Canada for hexachlorobenzene.
- g) Nomination dossier from Canada for dioxins and furans.
- h) Nomination dossier from Mexico for hexachlorobenzene.

Item 5.6 Environmental Management Systems and Compliance

DOCUMENTS:

- a) Secretariat Note C/98-00/BACK/03
- b) Report to the Council on Results and Recommendations Pursuant to Council Resolution 97-05 by the EWG, April 1998 C/98-00/RPT/01

Item 5.7 North American Cooperation on Environmental Emergencies

DOCUMENTS:

- a) Secretariat Note C/98-00/BACK/09/Rev.1
- b) Council Resolution C/98-00/RES/02

Item 5.8 Article 13 Reports

DOCUMENTS:

- a) Secretariat Note C/98-00/BACK/06/Rev.1
- b) Upper San Pedro Initiative Highlights: Sustaining and Enhancing Riparian Migratory Bird Habitat on the Upper San Pedro River C/98-00/RPT/03

Item 6 Discussion on JPAC guidance and advice (1 hr)

Under this item, it is proposed that the Council prepare for its meeting with JPAC the next morning by trying to reach a consensus on the guidance it wishes to provide to JPAC for its activities of the coming year as well as on its response to advice received from JPAC.

DOCUMENTS:

- a) Follow-up of JPAC Advice to Council J/00/LIST/01/Rev.8
- b) Draft JPAC Report to Council Members J/98-00/RPT/Rev.2
- c) JPAC attendance report J/98-00/LIST/01

PUBLIC SESSION WITH REGISTERED PARTICIPANTS

Item 7 Public Meeting (2 hr)

In accordance with Council Rules of Procedure (R. 4.1), the Council is expected to hold a public meeting to meet with the registered participants.

It is proposed that the public meeting be divided in three parts. During the first part, the Council would present the results of its first day of meeting and reiterate its expectations for the public meeting (15 min.). During the second part, a *rapporteur* would present the results of the discussions that took place during the workshop on the five program areas of the CEC (10 min.). Thirdly, the floor would be open for individual presentations (65 min.). Finally, the Council would have an opportunity for Council to respond to all presentations (30 min.).

DOCUMENTS:

- a) Provisional program of activities open to all registered participants C/98-00/PLAN/04/Rev.4
- b) List of Participants as of 16 June 1998 C/98-00/LIST/02/Rev.1
- c) Final Report of the Independent Review Committee

IN-CAMERA SESSION WITH JPAC

Item 8 Council meets with JPAC (2 hr)

Under this item it is proposed that the Council meet with JPAC to discuss issues of common interest. JPAC may wish to provide advice to the Council on any matter within the scope of the NAAEC, in accordance with Article 16(4) of the NAAEC, and more particularly on JPAC's views on the purpose, objectives and rationale of a CEC triennial strategic framework. Furthermore, the Council may wish to respond to advice submitted by JPAC in 1997 and 1998 as well as provide guidance to JPAC in accordance with Article 16(4) of the NAAEC.

DOCUMENTS:

- a) Follow-up of JPAC Advice to Council J/00/LIST/01/Rev.8
- b) Draft JPAC Report to Council Members J/98-00/RPT/Rev.2

IN-CAMERA SESSION

Item 9 CEC procedures (1.5 hr)

Item 9.1 Discussion of Articles 14 and 15

Under this item, the Council is expected to discuss the review of the Articles 14 and 15 guidelines. In addition, in accordance with its decision taken at the 1997 regular session in Pittsburgh, USA, the Council may wish to submit “its common proposed modifications to the Guidelines [...] to the JPAC for a 60-days review process.”

DOCUMENTS:

- a) Guidelines for Submissions on Enforcement Matters under Articles 14 and 15 of NAAEC - Integrated Draft for Discussion, 3 June 1998, Revision 1

Item 9.2 Administrative Matters

The Council is expected to adopt a resolution establishing the contribution level of the Parties for 1999.

- a) Draft Resolution on contribution level for 1999 C/98-00/RES/01

Item 10 Approval of session communiqué (30 min.)

Under this item, it is proposed that the Council review and make final adjustments to the session communiqué to be released at the end of the session. It is also proposed that the Council review arrangements for the press conference, as appropriate.

The basic agenda for the press conference could include: report by the Chair on proceedings; statement by other Council members; exchange with media representatives; individual interviews.

DOCUMENTS:

- a) Draft Outline of Session communiqué C/98-00/COMM

Item 11 1999 regular session of the Council (10 min.)

Council Resolution 96-10 adopted on 2 August 1996 states that: “the regular sessions of the Council will be held in the month of June, at a location specified by the Council in accordance with its Rules of Procedure.” It is proposed that the Council set a date for the next regular session of the Council. Also, it is proposed that the host country (Canada) inform the Council of the venue selected.

DOCUMENTS:

- a) Council Resolution 96-10 C/96-00/RES/07/Rev.3

Item 12 Other business (15 min.)

At the time of writing, the Secretariat has no topic to propose under this item.

DOCUMENTS: No document

Item 13 Concluding remarks (15 min.)

Under this item, it is proposed that the Chair of the session make any final announcements, acknowledge the contribution of participants and observe on the general conduct of the session. It is also proposed that the Chair invite the other two Council members to make any final statements and then bring the meeting to a close.

DOCUMENTS: No document