

## SESSION 98-08 OF ALTERNATE REPRESENTATIVES

### SUMMARY RECORD

The Council, represented by the Alternate Representatives, met in Montreal on 2 and 3 November 1998. Ms. Norine Smith (Canada) chaired the meeting. Mr. José Luis Samaniego and Mr. William Nitze represented Mexico and the United States, respectively. Mr. Jonathan Plaut, represented the Chair of the JPAC and Ms. Janine Ferretti, Interim Executive Director of the CEC, represented the Secretariat. Mr. Marc Paquin, Council Secretary, was the session secretary. Other officials from the Parties and the Secretariat were also in attendance (the complete list of participants is attached as Annex A).

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

The agenda for the session was adopted at the beginning of the session based on the provisional agenda (Annex B).

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

In accordance with Council Rules of Procedure (R. 5.3), the Interim Executive Director reported to the Council on Secretariat activities (Annex C).

Further to the report by the Interim Executive Director, the Alternate Representatives agreed to ask the Secretariat to prepare a proposal for discussion at their next session on how to use 1998 surplus funds, if any.

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

The Chair of JPAC was represented by Mr. Jonathan Plaut. He provided an update to the Alternate Representatives on JPAC activities since the September session of Alternate Representatives. He first indicated that the JPAC had prepared a detailed advice to Council on the 1999-2001 Program Plan and indicated he was happy to see that the second iteration of that document had taken many of these recommendations into account.

He further reported that the JPAC issued a call for comments on the revision of the Articles 14 and 15 Guidelines and expressed surprise that only 3 comments had been received thus far. The Guidelines will be further discussed by JPAC at its meeting in December 1998 in Washington. The JPAC intends to hold a workshop in January 1999 with representatives from the public to discuss the comments received and prepare their advice to Council.

Mr. Plaut also indicated that the December JPAC session will enable the JPAC to interact with the CEC Enforcement Group. He further indicated that the first JPAC session of 1999 is scheduled for February in Mexico City and the second one in April in Yellowknife, N.W.T., in conjunction, this time, with some representatives from the Sound Management of Chemicals working group.

Mr. Plaut further reported on JPAC's efforts to better coordinate with the NACs and GACs of all three countries. He also indicated that the JPAC was very pleased with the last meeting it had with the Alternate Representatives and believed that these meetings are extremely valuable. Commenting further on future JPAC meetings, Mr. Plaut mentioned that the JPAC will hold a roundtable with the public at each public session in order to improve public input in its work.

#### **Item 4 Approval of summary records**

The summary records of sessions 98-00, 98-05, 98-06 and 98-07 were approved by the Alternate Representatives.

#### **Item 5 Approval of the 1999-2001 Program Plan**

In accordance with the CEC Program Development Cycle approved by the Council in Mérida in June 1998, the Alternate Representatives continued the revision of the second iteration of the 1999-2001 Program Plan and generally approved its content subject to a number of changes to be made by the Secretariat, and further discussion on the following four projects: NAFTA Environmental Effects; Conservation and Utilization of Biodiversity; North American Biodiversity Conservation Mechanisms and; Regional Cooperation in Support of Climate-Change Policies including the Clean Development Mechanism. In addition, the United States proposed two new projects: North American Marine Protected Areas Network and Mapping Marine and Estuaries Ecosystems in North America. A third one, the Emerging Trends project, was reintroduced in the program plan. The Alternate Representatives approved these three projects in principle, subject to the allocation of funds. The Alternate Representatives also agreed to move the Species Report in the Biodiversity Mechanisms project from 2000 to 1999, subject to availability of funds.

The Alternate Representatives expect to finalize the review of the remaining projects and formally approve the 1999-2001 Program Plan at their December 1998 session. At the request of JPAC, it was agreed that the next iteration of the 1999-2001 Program Plan and of the 1999 Program and Budget be made public for comments. As well, the Alternate Representatives requested that the Secretariat prepare an executive summary.

#### **Item 6 Review of the 1999 Annual Program and Budget**

The Secretariat was directed to incorporate changes made to the three-year program plan during this session into the 1999 Annual Program and Budget, as well as to re-allocate financial resources in order to balance the 1999 budget. While no significant changes to the 1999 projects are expected, the Alternate Representatives will review the second draft 1999 Annual Program and Budget on 10-11 December.

The Alternate Representatives agreed that the initial call for NAFEC proposals can go out with a disclaimer indicating that awards will be made from the NAFEC fund subject to the availability of funds and the domestic fiscal rules of each Party.

**Item 7      Negotiations of the North American Agreement on Transboundary Environmental Impact Assessment**

The Alternate Representatives took note of, and discussed, the results of the last round of negotiations held in Montreal on 20-23 October 1998. They agreed to ask the Parties' negotiators to consider further a proposed text submitted by the United States and Mexico with a view to moving forward with the negotiations of the agreement.

**Item 8      Review and approval of action plan in response to the Deloitte and Touche report**

The Alternate Representatives discussed and approved the proposed action plan developed by the Secretariat in accordance with instructions received from the Alternate Representatives' at their 98-06 session in response to the efficiency review of the CEC prepared by Deloitte and Touche.

**Item 9      Discussion on next steps regarding draft Public Participation Guidelines**

The Alternate Representatives discussed next steps with regard to the draft public participation guidelines in light of the advice received from JPAC and their NACs and GACs. They agreed the Parties would provide to the Secretariat by 6 November their comments on the draft guidelines. The Secretariat will then, taking into account the comments received from the Parties, and working with JPAC, prepare a second iteration of the draft guidelines. The Secretariat will develop, in cooperation with JPAC, for review by the Alternate Representatives at their December 1998 meeting, a process and time frame for finalizing the public participation guidelines. The Alternate Representatives established the goal of reviewing the final draft of the guidelines at their April 1999 meeting.

**Item 10     NAFTA Effects project: Status report on government peer review**

The Secretariat provided a status report on the peer review process underway in the context of the NAFTA Effects project. The Alternate Representatives agreed that the Secretariat should organize a meeting on 2 December 1998 in Washington, D.C., to discuss the results of the peer review, with a view to developing a NAFTA effects project proposal for approval at the Alt Reps meeting in December.

**Item 11     NAAEC Article 10(6)/NAFTA Chapter 11 – Letter from Sierra Club et al. to the Council**

The Alternate Representatives discussed options further to the letter sent by Sierra Club et al. to Council on 17 September 1998 in relation to NAFTA Chapter 11 and NAAEC Article 10(6). They will discuss with their counterparts the possibility of holding an environment and trade officials meeting in Washington on 1-2 December 1998.

## **Item 12 Date and venue for the 1999 Regular Session of the Council**

Canada proposed holding the 1999 Regular Session of the Council on 25-26 June 1999 in Kananaskis, Alberta. Mexico has already indicated its availability on those dates. The U.S. has not yet confirmed its availability.

## **Item 13 Other issues**

### **Item 13.1 Model rules**

The Alternate Representatives agreed to hold the next negotiating session of the Models Rules for Part V of the NAAEC during the first week of February (1-5 February) in Mexico City. The United States reiterated the Council's agreement to finalize, within the same timeframe, the revised Articles 14 and 15 Guidelines and the Model Rules for Part V.

### **Item 13.2 CEC Contract Template**

The Alternate Representatives asked the Secretariat to review its professional services contract template to determine whether or not its clause on the legal personality of the CEC is still required now that the headquarters agreement with Canada is in force. They further requested the Secretariat to prepare an addendum to the contract retaining the services of KPMG for the search of an Executive Director for the CEC so as to include a clause with language similar to the one contained in Article 11(4) of the NAAEC.

### **Item 13.3 Response letter to Mrs. Maria Cristina Castro**

Mexico indicated it will circulate to the Parties a new draft of its proposed response to the letter sent to the Council by Ms. Maria Cristina Castro. The Alternate Representatives agreed that a separate letter would also be sent to the current Chair of JPAC.

### **Item 13.4 Emerging Trends meeting**

The Alternate Representatives agreed that the Emerging Trends meeting will take place in Montreal on 7-8 December.

## **Item 14 Scheduling of next sessions of Alternate Representatives**

In light of the calendar of proposed sessions for October 1998 to December 1999, the Alternate Representatives confirmed that their next session will take place on 10-11 December 1998 at the Secretariat offices in Montreal. An additional day of meeting is scheduled for 9 December, subject to the availability of Canada and the United States.

The Alternate representatives further agreed to block in their agenda the dates identified in the proposed calendar of sessions from October 1998 to December 1999, which was developed taking into

account the timetable established by the Council for the approval of the Triennial Program Plans and Annual Programs and Budgets.

**Item 15    Closure of the session**

The Chairperson closed the session.

Prepared by Marc Paquin  
Council Secretary